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TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 41-10]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

ELIMINATION OF REQUIREMENT FOR CERTIFICATION IN TRANSPORT CATEGORY AFTER DECEMBER 31, 1953, AND ESTABLISHMENT OF NONTRANSPORT CATEGORY OPERATING LIMITATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1953.

This amendment to Part 41 of the Civil Air Regulations eliminates the requirement for certification in the transport category after December 31, 1953, and establishes nontransport category operating limitations to become effective on July 1, 1954.

Section 41.26 (c) of Part 41 currently states that after December 31, 1953, all aircraft operating under this part shall comply with the transport category certification requirements of either Part 4a or 4b and with the operating limitations prescribed in this part for transport category airplanes. This requirement was intended to remove from the scheduled air transportation such aircraft types as the Douglas DC-3 and Lockheed L-18 after this date unless recertificated in the transport category. This provision was also contained in Part 40 of the Civil Air Regulations. In view of the safety record of the DC-3 and L-18 and their continued use in scheduled passenger operation, the Board, in revised Part 40, permitted the continued operation of these airplanes but required that they comply with certain performance operating limitations based on the nontransport category performance limitations that presently appear in Part 42.

In view of the action taken with respect to these airplanes in revised Part 40, this regulation permits operation of nontransport category airplanes under Part 41 after December 31, 1953, but at the same time prescribes the same performance operating limitations that are prescribed in revised Part 40. Since it is estimated that the affected air carriers will require about six months to implement these operating limitations for these aircraft, the operating limitations will not become effective until July 1, 1954. This will permit continued operation of these aircraft under present conditions until that date.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. Since this regulation imposes no immediate additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 41 of the Civil Air Regulations (14 CFR, Part 41, as amended) effective immediately:

1. By amending § 41.26 (b) (1) to read as follows:

(1) Retain their present airworthiness certification status and meet the requirements of § 41.36 except that until July 1, 1954, these aircraft may be operated in accordance with such operating limitations as the Administrator finds will provide a safe relation between the performance of the aircraft and the dimensions of airports and terrain; or

2. By deleting § 41.26 (c)

3. By adding new §§ 41.36, 41.36a, 41.36b, 41.36c, and 41.36d to read as follows:

§ 41.36 *Nontransport category airplane operating limitations.* In operating any nontransport category airplane in passenger service on or after July 1, 1954, the provisions of §§ 41.36a through 41.36d shall be complied with, unless deviations therefrom are specifically authorized by the Administrator on the ground that the special circumstances of a particular case make a literal observance of the requirements unnecessary for safety. Prior to that date such airplanes shall be operated either in accordance with §§ 41.36a through 41.36d or in accordance with such operating limitations as the Administrator determines will provide a safe relation between the performance of the airplanes and the airports to be used and the areas to be tra-

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versed. Performance data published or approved by the Administrator for each such nontransport category airplane shall be used in determining compliance with the provisions of §§ 41.36a through 41.36d.

§ 41.36a *Take-off limitations.* No take-off shall be made at a weight in excess of that which will permit the airplane to be brought to a safe stop within the effective length of the runway from any point during the take-off up to the time of attaining 105 percent of minimum control speed or 115 percent of the power-off stalling speed in the take-off configuration, whichever is the greater. In applying the requirements of this section:

(a) It may be assumed that take-off power is used on all engines during the acceleration;

(b) Account may be taken of not more than 50 percent of the reported wind component along the take-off path if opposite to the direction of take-off, and account shall be taken of not less than 150 percent of the reported wind component if in the direction of the take-off;

(c) Account shall be taken of the average runway gradient when the average gradient is greater than ½ percent. The average runway gradient is the difference between the elevations of the end points of the runway divided by the total length;

(d) It shall be assumed that the airplane is operating in the standard atmosphere.

§ 41.36b *En route limitations; one engine inoperative.* (a) No take-off shall be made at a weight in excess of that which will permit the airplane to climb at a rate of at least 50 feet per minute with the critical engine inoperative at an altitude of at least 1,000 feet above the elevation of the highest obstacle within 5 miles on either side of the intended track or at an altitude of 5,000 feet, whichever is the higher: *Provided,* That in the alternative an air carrier may utilize a procedure whereby the airplane is operated at an altitude such that, in event of an engine failure, the airplane can clear the obstacles within 5 miles on either side of the intended track by 1,000 feet, if the air carrier can demonstrate to the satisfaction of the Administrator that such a procedure can be used without impairing the safety of operation. If such a procedure is utilized, the rate of descent for the appropriate weight and altitude shall be assumed to be 50 feet per minute greater than indicated by the performance information published or approved by the Administrator. Before approving such a procedure, the Administrator shall take into account, for the particular route, route segment, or areas concerned, the reliability of wind and weather forecasting, the location and types of aids to navigation, the prevailing weather conditions, particularly the frequency and amount of turbulence normally encountered, terrain features, air traffic control problems, and all other operational factors which affect the safety of an operation utilizing such a procedure.

(b) In applying the requirements of paragraph (a) of this section, it shall be assumed that:

(1) The critical engine is inoperative;

(2) The propeller of the inoperative engine is in the minimum drag position;

(3) The wing flaps and landing gear are in the most favorable positions;

(4) The operative engine or engines are operating at the maximum continuous power available;

(5) The airplane is operating in the standard atmosphere;

(6) The weight of the airplane is progressively reduced by the weight of the anticipated consumption of fuel and oil.

§ 41.36c *Landing distance limitations; airport of intended destination.* No take-off shall be made at a weight in excess of that which, allowing for the anticipated weight reduction due to consumption of fuel and oil, will permit the airplane to be brought to a stop within 60 percent of the effective length of the most suitable runway at the airport of intended destination.

(a) This weight shall in no instance be greater than that permissible if the landing were to be made:

(1) On the runway with the greatest effective length in still air, and

(2) On the runway required by the probable wind, taking into account not more than 50 percent of the probable headwind component and not less than 150 percent of the probable tailwind component.

(b) In applying the requirements of this section it shall be assumed that:

(1) The airplane passes directly over the intersection of the obstruction clearance plane and the runway at a height of 50 feet in a steady gliding approach at a true indicated air speed of at least 1.3 V_{s_0},

(2) The landing is made in such a manner that it does not require any exceptional degree of skill on the part of the pilot;

(3) The airplane is operating in the standard atmosphere.

§ 41.36d *Landing distance limitations; alternate airports.* No airport shall be designated as an alternate airport in a dispatch release unless the airplane at the weight anticipated at the time of arrival at such airport can comply with the requirements of § 41.36c: *Provided,* That the airplane can be brought to rest within 70 percent of the effective length of the runway.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–604, 52 Stat. 1007–1010; 49 U. S. C. 551–554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10783; Filed, Dec. 28, 1953; 8:50 a. m.]

[Reg. SR-356A]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

SPECIAL CIVIL AIR REGULATION; LANDING WEIGHTS FOR NONTRANSPORT CATEGORY AIRPLANES IN SCHEDULED OVERSEAS AND FOREIGN PASSENGER OPERATION

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1953.

This Special Civil Air Regulation extends the provisions of Special Civil Air Regulation SR-356 until July 1, 1954.

Certain airplanes certificated as a basic type prior to June 30, 1942, and currently used in scheduled air carrier passenger operations have at various times since original certification been allowed increases in their maximum certificated take-off and landing weights. The increases have been allowed under the provisions of later adopted airworthiness requirements based upon different and more realistic safety criteria where the airplanes have been shown to comply with such requirements for particular operations.

However, these developments have not followed a consistent pattern, and prior to the adoption of SR-356 in 1950, airplanes of the same basic type were operated at differing maximum landing weights. For example, the usual maximum landing weight for a Douglas DC-3 (not certificated in the transport cate-

gory) operated in scheduled passenger service is 24,400 pounds when operated in accordance with limitations established in the air carrier's operations specifications, whereas the maximum landing weight for a comparable airplane used by an irregular air carrier or commercial operator is 25,000 pounds subject, however, to operating limitations provided for in Part 42 of the Civil Air Regulations.[1]

The Board was asked by certain scheduled air carriers to permit operation of the DC-3 and the Lockheed Model 18 as nontransport category airplanes at the landing weights authorized for these same airplanes in irregular passenger service. The Board authorized the use of these higher weights for nontransport category airplanes by SR-356 on the condition that they be operated in accordance with the operating limitations established for such airplanes in Part 42.

Revised Part 40, effective January 1, 1954, prescribes operating rules for scheduled air carriers engaged in the carriage of passengers in interstate commerce which require these carriers to operate their nontransport category airplanes in accordance with requirements that are similar to those currently prescribed in Part 42 for such airplanes. An amendment to Part 41, which will be issued concurrently with this regulation proposes that the nontransport category performance operating limitations for these airplanes be incorporated in Part 41 as of July 1, 1954, thus applying these rules to scheduled carriers carrying passengers in overseas and foreign air transportation. In view of the fact that these airplanese will be able to receive the same landing weights currently authorized by SR-356 when operating in accordance with the requirements in revised Part 40 and those proposed for Part 41, it is not necessary to extend this regulation with respect to operations under Part 40, or to extend it with respect to Part 41 after June 30, 1954. Accordingly, this regulation only extends the provisions of SR-356 with respect to those operations under Part 41, scheduled service in overseas and foreign air transportation, until July 1, 1954. After that date SR-356 will not be necessary and it is not intended that elimination of this rule operate to affect the weights of aircraft previously established under SR-356.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. Since this regulation imposes no additional burden on any person, it may be made effective without prior notice.

[1] The DC-3 is also eligible and is being operated at a maximum certificated takeoff weight of 26,200 pounds and a maximum certificated landing weight of 26,000 pounds in accordance with transport category performance rules. The DC-3 when used for the carriage of cargo only is eligible and is being operated at maximum certificated take-off and landing weights as high as 26,900 pounds. Furthermore, corresponding limitary versions of the DC-3 have been operated at maximum weights in excess of 30,000 pounds.

In consideration of the foregoing the Civil Aeronautics Board makes and promulgates the following Special Civil Air Regulation, effective January 1, 1954.

Contrary provisions of the Civil Air Regulations notwithstanding, an airplane type certificated prior to June 30, 1942, may be used for the carriage of persons in scheduled overseas and foreign air transportation at a maximum landing weight not exceeding its maximum certificated take-off weight for passenger service: *Provided,* That such landing weight does not exceed the weight for which the structure has been substantiated in accordance with the structural requirements upon which the original certification was based: *Provided further* That the airplane is operated in accordance with the operating limitations prescribed in Part 42 of the Civil Air Regulations as heretofore or hereafter amended, for aircraft not certificated in the transport category: *And provided further* That if an air carrier elects to operate aircraft under the provisions of this Special Civil Air Regulation it shall be required that all of its aircraft of the same or related types be operated thereunder.

This Special Civil Air Regulation shall supersede Special Civil Air Regulation SR-356 and terminate on June 30, 1954, unless sooner rescinded or superseded by the Board.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 52 Stat. 1007, 1010; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10786; Filed, Dec. 28, 1953; 8:50 a. m.]

[Reg. SR-391B]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL CIVIL AIR REGULATION; EXTENSION OF DATE FOR APPLICATION OF TRANSPORT CATEGORY PERFORMANCE REQUIREMENTS TO C-46 TYPE AIRPLANE

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1953.

Special Civil Air Regulation SR-391 permits operators of C-46 type aircraft used in the carriage of passengers to operate at a maximum certificated take-off weight of 44,300 pounds except for those airplanes having a certain type propeller which are allowed an additional 1,000 pounds. Special Civil Air Regulation SR-391 permits such operation only until January 1, 1954.

For the past several years it has been anticipated that after December 31, 1953, all airplanes used in irregular passenger operation shall comply with the transport category requirements of Parts 4a or 4b and with transport category operating limitations. This provision, which was identical to provisions in Parts 40 and 41 of the Civil Air Regulations, was intended to require nontransport category airplanes, principally the Douglas DC-3, the Lockheed L-18, and the Curtiss C-46, to comply with stricter requirements than those now in effect for passenger operations pursuant to Part 42. In the case of the C-46, these operations are further limited by Special Civil Air Regulation SR-391 which temporarily establishes a maximum certificated weight for this airplane of 44,300 pounds with an additional 1,000 pounds for those airplanes having certain type propellers.

Tests are currently being conducted with the C-46, incorporating certain modifications which are designed to improve performance and the general safety of operation. These tests are being conducted by the Aircraft Engineering Foundation, representing the C-46 operators, which has requested that the Board extend the present applicable regulations until June 30, 1954. It is stated that these tests will be completed soon and that the results will be presented to the Civil Aeronautics Administration for appraisal in the early part of 1954. In consideration of the foregoing, SR-391 is being extended to not later than March 31, 1954; which, in view of the ample notice which has been given for consideration by the industry of the factors involved in the continued use of nontransport category airplanes in passenger operations, should constitute sufficient time for presentation to and consideration by the Board of the necessary data derived from the tests.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all the relevant matter presented. Since this regulation imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Special Civil Air Regulation SR-391, effective immediately:

By amending paragraph 1 of Special Civil Air Regulation SR-391 by deleting the date "January 1, 1954" and inserting in lieu thereof the date "April 1, 1954".

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 52 Stat. 1007, 1010; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10787; Filed, Dec. 28, 1953; 8:50 a. m.]

[Civil Air Reg., Amdt. 42-19]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

EXTENSION OF DATE FOR REQUIREMENT OF APPROVED TYPE RADIO EQUIPMENT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1953.

This amendment to Part 42 of the Civil Air Regulations extends the date by which approved type radio equipment must be installed in airplanes used in operations conducted under Part 42.

Part 42 requires that after December 31, 1953, radio equipment used in large

airplanes operated under this part shall be of an approved type. This requirement was adopted in August 1951, and thus allowed two years for the type certification of equipment then being used by many carriers operating under this part. Although the Civil Aeronautics Administration and industry groups have been working on the type certification of this equipment for some time, it is not expected that this will be completed until early in 1954. The Board has been requested, therefore, to extend the date by which the requirement for approved radio equipment must be met. In view of the fact that an extension of the date by which nontransport category airplanes must comply with transport category requirements is being granted until March 31, 1954, the Board has determined that the requirement that large airplanes operating under Part 42 be equipped with approved type radio equipment should also be extended to that date. This will permit sufficient time for the type certification of the equipment used by many operators conducting operations under this part.

Since this amendment imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) effective immediately.

By amending § 42.23 by deleting the date "December 31, 1953" and inserting in lieu thereof the date "March 31, 1954"

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10784; Filed, Dec. 28, 1953; 8:50 a. m.]

[Civil Air Regs., Amdt. 42-20]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

EXTENSION OF DATE REQUIRING NONTRANSPORT CATEGORY AIRPLANES USED IN PASSENGER OPERATIONS TO COMPLY WITH STANDARDS OTHER THAN THOSE CURRENTLY IN EFFECT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1953.

This amendment to Part 42 of the Civil Air Regulations extends the date by which nontransport category airplanes must comply with transport category rules.

Section 42.15 (c) for the past several years has stated that after December 31, 1953, all airplanes used in irregular passenger operation shall comply with the transport category requirements of Parts 4a or 4b and with transport category operating limitations. This provision, which was identical to provisions in Parts 40 and 41 of the Civil Air Regulations, was intended to require nontransport category airplanes, principally the Douglas DC-3, the Lockheed L-18, and the Curtiss C-46, to comply with stricter requirements than those now in effect for passenger operations pursuant to Part 42. In the case of the C-46, these operations are further limited by Special Civil Air Regulation SR-391, which temporarily establishes a maximum certificated weight for this airplane of 44,300 pounds with an additional 1,000 pounds for those airplanes having certain type propellers.

Tests are currently being conducted with the C-46, incorporating certain modifications which are designed to improve performance and the general safety of operation. These tests are being conducted by the Aircraft Engineering Foundation, representing the C-46 operators, who have requested that the Board extend the present applicable regulations until June 30, 1954. It is stated that these tests will be completed soon and that the results will be presented to the Civil Aeronautics Administration for appraisal in the early part of 1954. In consideration of the foregoing, the compliance date in Part 42 is being extended to not later than March 31, 1954; which, in view of the ample notice which has been given for consideration by the industry of the factors involved in the continued use of nontransport category airplanes in passenger operations, should constitute sufficient time for presentation to and consideration by the Board of the necessary data derived from the tests.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all the relevant matter presented. Since this amendment imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) effective immediately.

By amending § 42.15 (c) by deleting the date "December 31, 1953" and inserting in lieu thereof the date "March 31, 1954".

(Sec. 205; 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604; 52 Stat. 1007, 1010; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10785; Filed, Dec. 28, 1953; 8:50 a. m.]

[Reg. No. PR-23]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

REDESIGNATION OF THE OFFICE OF ENFORCEMENT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 22d day of December 1953.

Effective November 23, 1953, the Office of Enforcement of the Civil Aeronautics Board was redesignated and renamed the Office of Compliance. Accordingly, it is appropriate to amend the rules of practice of the Civil Aeronautics Board to reflect this change by referring therein to the "Office of Compliance" and "Compliance Attorney" rather than "Office of Enforcement" and "Enforcement Attorney"

Since this amendment is not a substantive rule but one of agency organization and procedure, notice and public procedure hereon are unnecessary and the amendment may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 302 of the Procedural Regulations (14 CFR 302) as follows:

1. By substituting the term "Office of Compliance" for "Office of Enforcement" in §§ 302.201, 302.203, 302.205, 302.206 (a) (b) and (c) and § 302.215.

2. By substituting the term "Compliance Attorney" for "Enforcement Attorney" in §§ 302.9, 302.28, 302.30, 302.205 and 302.210.

(Sec. 205; 52 Stat. 984; 49 U. S. C. 425. Interpret or apply § 1001; 52 Stat. 1017; 49 U. S. C. 641)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-10782; Filed, Dec. 28, 1953; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

[Sugar Reg. 811]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

REQUIREMENTS AND QUOTAS FOR 1954

Correction

In Federal Register Document 53-10487, published at page 8257 of the issue for Thursday, December 17, 1953, the following change is made:

In § 811.65 (b) (2) the headnote of the list (corrected erroneously at 18 F. R. 8563) should read: *"Direct-consumption sugar, pounds, raw value"*

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regulations 4, further amended]

PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950——)

WAGE REPORTS AND CONTRIBUTION RETURNS

Section 404.1250 of Regulations No. 4, as amended (20 CFR, 1952 Supp., 404.1250), is amended by adding a new paragraph (c) to read:

§ 404.1250 *Wage reports and contribution returns.* * * *

(c) *Filing of wage reports and contribution returns with directors of internal revenue.* (1) Where a State or any of its political subdivisions has in its employ individuals performing services for the State or a political subdivision of the State as members of a coverage group included under an agreement and such

individuals also regularly perform services identical in nature in the employ of employers who are subject to the provisions of subchapter A or E of chapter 9 of the Internal Revenue Code with respect to the wages paid by such employers for such services to such individuals, and where, with the approval of the Internal Revenue Service, the payment of the taxes and the filing of information returns required of employers under subchapter A or E of chapter 9 of the Internal Revenue Code are made for all such employers by an agent appointed by them, such State may, with respect to such individuals, elect to permit the agent of such employers to file tax and information returns with, and to make payment thereon to, a director of internal revenue in the manner and according to the conditions prescribed in regulations of the Internal Revenue Service relating to the employees' tax and the employers' tax under subchapter A or E of chapter 9 of the Internal Revenue Code.

(2) Where the Secretary has been furnished with written evidence to the effect that a State has made such an election and that the Commissioner of Internal Revenue has agreed to permit a director of internal revenue to accept and receive such contribution and information returns and payment of contributions, the filing of such tax and information returns with, and the payment of such contributions to, the director shall be deemed to be compliance with the requirements imposed upon the State by paragraph (a) of this section, except that nothing contained in this paragraph shall relieve any such State of its obligations and responsibilities under its agreement and the regulations in this subpart relative to its liability for the payments required under its agreement.

(Sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302. Interprets or applies sec. 218, 64 Stat. 514, 42 U. S. C. 418)

Dated: December 21, 1953.

[SEAL] JOHN W. TRAMBURG,
Commissioner of Social Security.

Approved: December 22, 1953.

NELSON A. ROCKEFELLER,
Acting Secretary.

[F. R. Doc. 53-10759; Filed, Dec. 28, 1953; 8:48 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.206]

PART 44—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE REFUGEE RELIEF ACT OF 1953

AMENDMENTS TO REFUGEE REGULATIONS

Part 44, Chapter I, Title 22 of the Code of Federal Regulations, is hereby amended as follows:

1. Paragraph (a) *Submission of assurances*, of § 44.3, *Assurance of employment, housing, and against becoming a public charge*, is amended to read as follows:

(a) *Submission of assurances.* The assurance required by section 7 (a) of the act relating to employment, housing, and against becoming a public charge shall be given in writing by a responsible citizen or citizens of the United States. The assurance shall be (1) in such form and content as shall be prescribed by the Administrator; (2) accompanied by such documentary evidence as may be required by written instructions attached thereto; and (3) forwarded in triplicate to the Director of the Visa Office, Department of State, Washington 25, D. C. An assurance shall be the personal obligation of the individual citizen or citizens signing it. Several citizens may give individual assurances to cover the members of a family. Assurances which do not specifically identify the prospective employment and housing accommodation shall be considered blanket assurances and shall not be considered as meeting the requirements of section 7 of the act. The following assurance forms shall be used exclusively and may be obtained from the Visa Office of the Department of State, from any District Office of the Immigration and Naturalization Service, or from any voluntary or other recognized agency which performs services in connection with the immigration, settlement, or welfare of aliens:

Form DSR 1—Assurance by an individual sponsor for named alien.

Form DSR 2—Assurance by more than one sponsor for named alien.

Form DSR 3—Assurance by an individual sponsor for alien nominated by agent.

Form DSR 4—Assurance by more than one sponsor for alien nominated by agent.

2. Paragraph (f) *Procedure in case of unknown alien*, of § 44.3, *Assurance of employment, housing, and against becoming a public charge*, is amended to read as follows:

(f) *Procedure in case of unknown alien.* A United States citizen who desires to sponsor an unknown alien shall execute Form DSR-3 (Form DSR-4 if more than one sponsor) in an original and four copies and, in his discretion, may designate therein an individual or public or private agency or organization as his agent for the purpose of nominating the alien beneficiary of the assurance in accordance with its specifications. The original and three signed copies of the assurance shall be transmitted by the sponsor to the designated agent. At such time as an alien beneficiary has been nominated and the "Statement by Agent" annexed to the assurance form, has been properly completed by the agent, including the name of the nominated alien, the original and two signed copies of the assurance shall be forwarded to the Director of the Visa Office, Department of State, Washington 25, D. C. The assurance shall be accompanied by such documentary evidence as the attached instructions may require.

3. Paragraph (a) *Assurance of adoption and proper care*, of § 44.4, *Eligible orphans*, is amended to read as follows:

(a) *Assurance of adoption and proper care.* The assurance of adoption and proper care required by section 5 (b) of the act in the case of an orphan to be adopted in the United States shall be given in writing jointly by the adoptive United States citizen and spouse, and forwarded in triplicate (original and two signed copies) to the Director of the Visa Office, Department of State, Washington 25, D. C. Form DSR-5 shall be used in the case of an orphan known to the adoptive parents. Form DSR-6 shall be used in the case of an orphan to be selected by a designated agency. An assurance of adoption and proper care shall provide such information and be accompanied by such documentary evidence as may be required to satisfy the Administrator and the consular officer that (1) proper care will be provided the orphan in conformity with standards established by an appropriate public agency of the State in which the orphan will reside, (2) appropriate proceedings for the adoption of such orphan in the United States will be initiated and completed as soon as possible in accordance with the applicable State law, (3) no legal obstacle to a lawful adoption is known or believed to exist under the laws of the State of prospective adoption, (4) permission to bring the orphan into the State of prospective adoption has been obtained from the appropriate State agency, if such permission is necessary, (5) the orphan has been irrevocably released in writing for emigration and adoption in accordance with the law governing the relinquishment of a child for adoption in the country of the orphan's residence and the release is deemed acceptable to the court of prospective adoption, (6) a satisfactory investigation of the proposed adoptive home and parents has been made by a local child-care agency recognized by the State in which the orphan will reside, which investigation shall be compatible with the requirements, procedures and practices of the appropriate State welfare agency, (7) a satisfactory investigation in the country of the orphan's residence has been made by a qualified welfare agency concerning the orphan's mental and physical health, family background and other pertinent matters, and (8) arrangements have been made with an appropriate local agency or any other local child-care agency for the supervision of the orphan pending his legal adoption, and, in the event the adoption petition is denied by the court, for the assumption by such agency of responsibility for the care and resettlement of the orphan.

4. Paragraph (b) *Affidavit by social welfare agency*, of § 44.4 *Eligible orphans*, is amended to read as follows:

(b) *Statement by social welfare agency.* Every assurance of adoption and proper care given for an eligible orphan shall be a named assurance and shall be accompanied by a statement signed by a responsible officer of a national or other social welfare agency, recognized for such purpose by the Administrator, attesting to the authenticity and bona fides of the assurance, which statement shall be considered by the Administrator as a confirmation that the requirements and conditions, specified in paragraph (a) of this section, have been satisfied. The United States citizen and spouse who execute an assurance of

adoption and proper care shall designate therein a recognized social welfare agency to provide the necessary statement. It shall be incumbent upon such agency to report to the appropriate State Department of Welfare whenever an eligible orphan is to be placed within the State, and to indicate in the report what local agency will assume responsibility for the supervision of the orphan pending his or her legal adoption.

5. Paragraph (c) *Procedure in case of unknown orphan*, of § 44.4, *Eligible orphans*, is amended to read as follows:

(c) *Procedure in case of unknown orphan.* In the case of an orphan who is not known to the adoptive parents, the United States citizen and spouse shall execute Form DSR-6 in an original and four copies and shall authorize therein the designated social welfare agency to act as their agent in the selection of an eligible orphan in accordance with the specifications of the assurance. The original of the assurance and three signed copies thereof shall be transmitted by the adoptive parents to the designated agency. At such time as an eligible orphan has been selected and the required statement has been executed by a responsible officer of the designated agency, the complete file in the case, including the original and two signed copies of the assurance, shall be forwarded to the Director of the Visa Office, Department of State, Washington 25, D. C.

6. Paragraph (e) *Procedure in case of orphan adopted abroad*, of § 44.4, *Eligible orphans*, is amended to read as follows:

(e) *Procedure in case of orphan adopted abroad.* In the case of an orphan who has been adopted abroad, the adoptive United States citizen and spouse shall execute Form DSR-5 only to the extent required in such form, and if residing abroad, may submit the original and one signed copy thereof directly to the consular officer to whom an application for an immigrant visa will be made in behalf of such orphan. In the event the adoptive parents of an orphan adopted abroad are residing in the United States, the executed Form DSR-5 shall be submitted in triplicate (original and two signed copies) to the Director of the Visa Office, Department of State, Washington 25, D. C.

(Sec. 4, 63 Stat. 111; 5 U. S. C. 151c)

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

Dated: December 21, 1953.

SCOTT MCLEOD,
Administrator Bureau of Security, Consular Affairs, and Personnel.

[F. R. Doc. 53-10755; Filed, Dec. 28, 1953; 8:47 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XXI—Defense Rental Areas Division, Office of Defense Mobilization

[Rent Reg. 1, Amdt. 170 to Schedule A]

[Rent Reg. 2, Amdt. 168 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS

SCHEDULE A—DEFENSE-RENTAL AREAS

TEXAS

Effective December 29, 1953, Rent Regulation 1 and Rent Regulation 2 are amended so that the item of Schedule A indicated below reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 23d day of December 1953.

GLENWOOD J. SHERRARD,
Director
Defense Rental Areas Division.

(312) [Revoked and decontrolled.]

These amendments decontrol the following Defense-Rental Area, on the initiative of the Director, Defense Rental Areas Division, Office of Defense Mobilization, under section 204 (c) of the act: Del Rio (Texas) Defense-Rental Area.

* * * * *

[F. R. Doc. 53-10731; Filed, Dec. 28, 1953; 8:45 a. m.]

[Rent Reg. 3, Amdt. 160 to Schedule A]

[Rent Reg. 4, Amdt. 104 to Schedule A]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

TEXAS

Effective December 29, 1953, Rent Regulation 3 and Rent Regulation 4 are amended so that the item of Schedule A indicated below reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 23d day of December 1953.

GLENWOOD J. SHERRARD,
Director,
Defense Rental Areas Division.

(312) [Revoked and decontrolled.]

These amendments decontrol the following Defense-Rental Area, on the initiative of the Director, Defense Rental Areas Division, Office of Defense Mobilization, under section 204 (c) of the act: Del Rio (Texas) Defense-Rental Area.

* * * * *

[F. R. Doc. 53-10732; Filed, Dec. 28, 1953; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[Regulations 20]

PART 194—WHOLESALE AND RETAIL DEALERS IN LIQUORS

Preamble. 1. These regulations "Regulations 20, Wholesale and Retail Dealers in Liquors" (26 CFR, Part 194) are a republication of Regulations 20, 1940 edition (26 CFR, Part 194) as amended to date by approved Treasury decisions.

2. These regulations, except for the revision of one section to conform with the delegation of authority made in IR-Mimeograph No. 232, dated July 6, 1953, consist only of previously approved material but the text has been rearranged and renumbered to conform to the Federal Register Regulations (13 F. R. 5929).

3. This republication of these regulations shall not affect or limit any act done or any liability previously incurred, or any suit, action or proceeding had or commenced in any civil, administrative, or criminal cause and proceeding prior to the date of republication, nor shall this republication release, acquit, affect, or limit any offense committed in violation of these regulations prior to republication, or any penalty, liability or forfeiture incurred prior to such date.

4. It is found that compliance with the notice and public rule-making procedure of section 4 (a) and the effective date limitations of section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1001, et seq.) is unnecessary in connection with the republication of the regulations in this part for the reason that the changes made relate merely to form and not substance.

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194.0-3	Signs of distillers, rectifiers, and wholesale liquor dealers.
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AUTHORITY: §§ 194.1 to 194.261 issued under 53 Stat. 375, 467; 26 U. S. C. 3176, 3791. Other statutory provisions interpreted or applied are cited to the text in parenthesis.

§ 194.0 *Statutory provisions.* The provisions of law having more common application to wholesale and retail dealers in liquors are contained in §§ 194.0-1 to 194.0-41.

§ 194.0-1 *Departmental regulations.*

5 U. S. C. 22. DEPARTMENTAL REGULATIONS. The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers and property appertaining to it.

§ 194.0-2 *Stamps for containers of distilled spirits.*

26 U. S. C. 2803. STAMPS FOR CONTAINERS OF DISTILLED SPIRITS.

(a) *Requirement.* No person shall transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof has affixed thereto a stamp denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits. The provisions of this section shall not apply to—

(1) Distilled spirits placed in a container for immediate consumption on the premises or for preparation for such consumption;

(2) Distilled spirits in bond or in customs custody;

(3) Distilled spirits in immediate containers required to be stamped under existing law;

(4) Distilled spirits in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(5) Distilled spirits on which no internal-revenue tax is required to be paid;

(6) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale; or

(7) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(b) *Purchase and supply.* Any person placing or intending to place any distilled spirits upon which all internal-revenue taxes have been paid into any container upon which a stamp is required by this section, or withdrawing or intending to withdraw any imported spirits in such containers from customs custody, shall be entitled to purchase sufficient stamps for stamping such containers. Such stamps shall be issued by the Commissioner to each Collector, upon his requisition, in such numbers as may be necessary in his district, and shall be sold by the Collectors to persons entitled thereto upon application therefor and compliance with regulations under this section, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one half pint the price shall be one quarter of 1 cent for each stamp. When in his judgment there is no danger to the revenue, and upon the giving of such bonds or other security as he may deem necessary, the Commissioner may authorize the sale of such stamps to importers for stamping containers in the country from which imported.

(c) *Unused stamps; exchange, refund, etc.* The Commissioner of Internal Revenue, under regulations prescribed by him and approved by the Secretary of the Treasury, may redeem or make allowance for any unused stamps issued under section 203 of the Liquor Taxing Act of 1934 or subsection (b) of this section by exchanging them for other stamps of the same kind or by refunding moneys received therefor: *Provided,* That stamps may be exchanged or the value thereof refunded only in quantities of the value of $5 or more: *And provided further,* That no claim for the exchange of strip stamps or refund therefor shall be allowed unless presented within two years after the date on which such stamps were lawfully issued. There are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this provision.

(d) *Regulations for issuing, affixing, and canceling stamps.* The Commissioner, with the approval of the Secretary, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as he shall deem necessary for the enforcement of this section.

(e) *Destruction of stamps.* Every person emptying any container stamped under the provisions of this section shall at the time of emptying such container destroy the stamp thereon.

(f) *Forfeiture of spirits.* All distilled spirits found in any container required to bear a stamp by this section, which container is not stamped in compliance with this section and regulations issued thereunder, shall be forfeited to the United States.

(g) *Penalties.* Any person who violates any provision of this section, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under this section, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be destroyed by this section, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required to be destroyed by this section, or who places any distilled spirits in any bottle which has been filled and stamped under this section without destroying the stamp previously affixed to such bottle, or who affixes any stamp issued under this section to any container of distilled spirits on which any tax due is unpaid, or who makes any false statement in any application for stamps under this section, or who has in his possession any such stamps obtained by him otherwise than as provided in subsection (b), shall on conviction be punished by a fine not exceeding $1,000, or by imprisonment at hard labor not exceeding five years, or by both. Any officer authorized to enforce any provisions of law relating to internal revenue stamps is authorized to enforce the provisions of this section and the provisions of section 2909 relating to the bottling of distilled spirits in bond.

(h) *Transfer of duties.* For transfer of duties and powers of the Commissioner and his agents, see section 3170.

§ 194.0-3 *Signs of distillers, rectifiers, and wholesale liquor dealers.*

26. U. S. C. 2831. SIGNS OF DISTILLERS, RECTIFIERS, AND WHOLESALE LIQUOR DEALERS.

Every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer, shall place and keep conspicuously

on the outside of the place of such business a sign, exhibiting in plain and legible letters, not less than three inches in length, painted in oil-colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, or wholesale dealer, with the words: "Registered distillery," "rectifier of spirits," or "wholesale liquor dealer," as the case may be. Every person who violates the foregoing provision by negligence or refusal, or otherwise, shall pay a penalty of $500.

And every person, other than a rectifier or wholesale liquor dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, or wholesale liquor dealer, shall forfeit and pay $1,000, and shall be imprisoned not less than one month nor more than six months. And every person who works in any distillery, rectifying establishment, or wholesale liquor store, on which no sign is placed and kept, as hereinbefore provided; and every person who knowingly receives at, carries or conveys any distilled spirits to or from, any such distillery, rectifying establishment, warehouse, or store, or who knowingly carries and delivers any grain, molasses, or other raw material to any distillery on which such sign is not placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying such property aforesaid, and shall be fined not less than $100 nor more than $1,000, or be imprisoned not less than one month nor more than six months.

§ 194.0–4 *Books of rectifiers and wholesale dealers.*

26 U. S. C. 2857. BOOKS OF RECTIFIERS AND WHOLESALE DEALERS.

(a) *Requirements.* Every rectifier and every wholesale liquor dealer who sells, or offers for sale, distilled spirits in quantities of five wine-gallons or more to the same person at the same time shall keep daily, at his place of business covered by his special tax stamp, a record of distilled spirits received and disposed of by him, and shall render under oath correct transcripts and summaries of such records: *Provided,* That the Commissioner may in his discretion require such record to be kept at the place where the spirits are actually received and sent out. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pursuant thereto, shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every rectifier and wholesale liquor dealer who refuses or neglects to keep such records in the form prescribed by the Commissioner, with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of $100 and, on conviction, shall be fined not less than $100 nor more than $5,000, and be imprisoned not less than three months nor more than three years.

Every rectifier and wholesale liquor dealer who refuses or neglects to render transcripts or summaries in the form required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than $100 for each such neglect or refusal.

(b) *Transfer of Duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

§ 194.0–5 *Exemption of States from provisions of section 2857.*

26 U. S. C. 2858. EXEMPTION OF STATES FROM PROVISIONS OF SECTION 2857.

The provisions of section 2857 shall not apply to States and Commonwealths and liquor stores operated by such States and Commonwealths that maintain and make available to inspection by internal-revenue officers such records as will enable such officers to readily trace all distilled spirits received and disposed of by them: *Provided,* That such States and Commonwealths, and the liquor stores operated by them, shall, upon the request of the Commissioner, furnish to the Commissioner such transcripts, summaries, and copies of their records as he shall require.

§ 194.0–6 *Limitation on purchases by rectifiers and dealers.*

26 U. S. C. 2860. LIMITATION ON PURCHASES BY RECTIFIERS AND DEALERS.

It shall not be lawful for any rectifier of distilled spirits, or wholesale or retail liquor dealer, to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, distiller, or wholesale liquor dealer. Every person who violates this section shall forfeit and pay $1,000: *Provided,* That this provision shall not be held to apply to judicial sales, or to sales at public auction made by an auctioneer, or to sales upon which no special tax accrues as enumerated and provided for in section 3251. This section shall not be held to prohibit a rectifier or liquor dealer from purchasing, in quantities greater than twenty wine-gallons, the distilled spirits sold in one parcel as provided in section 3251 (c).

§ 194.0–7 *Regulation of traffic in containers of distilled spirits.*

26 U. S. C. 2871. REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS.

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him, and permits issued thereunder if required by him (1) to regulate the size, branding, marking, sale, resale, possession, use, and re-use of containers (of a capacity of less than five wine-gallons) designed or intended for use for the sale at retail of distilled spirits (within the meaning of such term as it is used in section 2803) for other than industrial use, and (2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith. Whoever willfully violates the provisions of any regulation prescribed, or the terms or conditions of any permit issued, pursuant to the authorization contained in this section, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than $1,000 or be imprisoned for not more than two years, or both; and, notwithstanding any criminal conviction, the containers involved in such violation shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for forfeitures, seizures, and condemnations for violations of the internal-revenue laws, and any such containers so seized and condemned shall be destroyed and not sold. Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law, and shall apply as well to persons not liable for tax under the internal-revenue laws as to persons so liable.

§ 194.0–8 *Exemption of industrial alcohol plants and warehouses from certain laws.*

26 U. S. C. 3103. EXEMPTION OF INDUSTRIAL ALCOHOL PLANTS AND WAREHOUSES FROM CERTAIN LAWS.

Industrial alcohol plants and bonded warehouses established under the provisions of this part shall be exempt from the provisions of sections 3154, 3244, 3258, 3259, 3260, 3263, 3264, 3266, 3267, 3268, 3269, 3271, 3273, 3274, 3275, 3279, 3280, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3302, 3303, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, and 3327 of the Revised Statutes; sections 48 to 60, inclusive, and sections 62 and 67 of the Act of August 27, 1894 (Twenty-eighth Statutes, pages 563 to 568), as such sections existed on October 28, 1919, and from such other provisions of laws existing on October 28, 1919, relating to distilleries and bonded warehouses as may, by regulations, be declared inapplicable to industrial alcohol plants and bonded warehouses established under this subchapter.

Regulations may be made embodying any provision of the sections above enumerated.

§ 194.0–9 *Taxability of denatured alcohol or articles produced, transferred, used, or sold in violation of law or regulations.*

26 U. S. C. 3111. TAXABILITY OF DENATURED ALCOHOL OR ARTICLES PRODUCED, TRANSFERRED, USED, OR SOLD IN VIOLATION OF LAW OR REGULATIONS.

Any person who shall produce, withdraw, sell, transport, or use denatured alcohol, denatured rum, or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured alcohol, denatured rum, or articles shall be subject to all provisions of law pertaining to alcohol that is not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured alcohol, denatured rum, or articles shall be required to pay such tax.

§ 194.0–10 *Penalties and forfeitures.*

26 U. S. C. 3159. PENALTIES AND FORFEITURES.

(a) *Evasion of tax or noncompliance with requirements on brewers.* Every owner, agent, or superintendent of any brewery, vessels, or utensils used in making fermented liquors, who evades or attempts to evade the payment of the tax thereon, or fraudulently neglects or refuses to make true and exact entry and report of the same in the manner required by law, or to do, or cause to be done, any of the things by law required to be done by him, or who intentionally makes false entry in said book or in said statement, or knowingly allows or procures the same to be done, shall—

(1) *Forfeitures.* Forfeit, for every such offense, all the liquors made by him or for him, and all the vessels, utensils, and apparatus used in making the same, and

(2) *Penalties.* Be liable to a penalty of not less than $500 nor more than $1,000, to be recovered with costs of suit, and shall be deemed guilty of a misdemeanor, and be imprisoned for a term not exceeding one year.

(b) *Neglect to keep books or furnish accounts.* Every brewer who neglects to keep books or refuses to furnish the account and duplicate thereof as provided by law, or refuses to permit the proper officer to examine the books in the manner provided, shall, for every such refusal or neglect, forfeit and pay the sum of $300.

(c) *Flagrant and willful removal of malt liquors without tax payment.* For flagrant

and willful removal of taxable malt liquors for consumption or sale, without payment of tax thereon, all the right, title, and interest of each person, who has knowingly suffered or permitted such removal or has connived at the same, in the lands and buildings constituting the brewery premises and bottling house shall be forfeited by a proceeding in rem in the District Court of the United States having jurisdiction thereof.

(d) *Fraud or neglect in affixing or canceling stamps.* Every brewer who refuses or neglects to affix and cancel, in the manner provided under section 3152 (b), the stamps required by law, or who affixes a false or fraudulent stamp, or knowingly permits the same to be done, shall pay a penalty of $100 for each hogshead, barrel, or keg on which such omission or fraud occurs, and be imprisoned not more than one year.

(e) *Sale, removal, or receipt without proper stamp or permit.* Whenever any brewer, cartman, agent for transportation, or other person, sells, removes, receives, or purchases, or in any way aids in the sale, removal, receipt, or purchase, of any fermented liquor contained in any hogshead, barrel, keg, or other vessel from any brewery or brewery warehouse, upon which the stamp, or permit, in case of removal, required by law, has not been affixed, or on which a false or fraudulent stamp, or permit, in case of removal, is affixed, with knowledge that it is such, or on which a stamp, or permit, in case of removal, once canceled, is used a second time, he shall be fined $100 and imprisoned for not more than one year.

(f) *Withdrawal from improperly stamped containers or without destroying stamps, penalty.* Whenever any retail dealer, or other person, withdraws or aids in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel containing the same, without destroying or defacing the stamp affixed thereon, or withdraws or aids in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel, upon which the proper stamp has not been affixed or on which a false or fraudulent stamp is affixed, he shall be fined $100 and imprisoned not more than one year.

(g) *Counterfeiting stamps and permits and trafficking in used stamps, penalty.* Every person who makes, sells, or uses any false or counterfeit stamp or permit, or die for printing or making stamps or permits, which is in imitation of or purports to be a lawful stamp, permit, or die of the kind before mentioned in this chapter, or who procures the same to be done, and every person who shall remove, or cause to be removed, from any cask or package of fermented liquors, any stamp denoting the tax thereon, with intent to reuse such stamp, or who, with intent to defraud the revenue, knowingly uses, or permits to be used, any stamp removed from another cask or package, or receives, buys, sells, gives away, or has in his possession, any stamp so removed, or makes any fraudulent use of any stamp for fermented liquors, shall be fined not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than three years.

(h) *Possession with tax not paid, forfeiture.* The ownership or possession by any person of any fermented liquor after its sale or removal from the brewery or warehouse, or other place where it was made, upon which the tax required has not been paid, shall render such liquor liable to seizure wherever found, and to forfeiture, removal under said permits excepted.

And the absence of the proper stamps from any hogshead, barrel, keg, or other vessel containing fermented liquor, after its sale or removal from the brewery where it was made, or warehouse as aforesaid, shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the nonpayment thereof.

(i) *Removal or defacement of stamps by others than the owner.* Every person, other than the purchaser or owner of any fermented liquor, or person acting on his behalf, or as his agent, who intentionally removes or defaces the stamp or permit affixed upon the hogshead, barrel, keg, or other vessel, in which the same is contained, shall be liable to a fine of $50 for each such vessel from which the stamp or permit is so removed or defaced, and to render compensation to such purchaser or owner for all damages sustained by him therefrom.

(j) *Fraudulent removal of bottled fermented malt liquors.* Any brewer or other person who removes or in any way aids in the removal from any brewery or brewery bottling house of any bottled fermented malt liquors on which the required tax has not been paid shall be fined $100 and imprisoned for not more than one year.

(k) *Intentional removal or defacement of manufacturer's marks on containers.* For penalty imposed for intentional removal or defacement of manufacturer's marks required upon a hogshead, barrel, keg, or other vessel containing fermented liquor, see section 3155 (f).

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§ 194.0–11 *Tax.*

26 U. S. C. 3250. TAX.

(a) *Wholesale dealers in liquors*—(1) *In general.* Wholesale dealers in liquors shall pay a special tax of $200.

(2) *Wholesale dealers in liquors dealing in wines or wines and malt liquors.* For the designation of wholesale dealers in liquors as wholesale dealers in wines or wholesale dealers in wines and malt liquors, and the issuance of the appropriate special tax stamps, see section 3254 (b).

(3) *Retailers selling at wholesale.* Except as provided in section 3254 (c) (2), a qualified retail dealer in liquors may not sell distilled spirits, wines, or malt liquors in quantities of five wine-gallons or more to the same person at the same time without incurring liability to special tax as a wholesale dealer in liquors.

(4) *Distillers selling at wholesale.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales.

(5) *Retail dealers in liquidation.* For exemption of retailers liquidating entire stock from payment of special tax as wholesalers, see section 3251 (c).

(6) *Creditors, fiduciaries, officers of court, and partners.* For exemption of creditors, fiduciaries, officers of court, and partners from the payment of any special tax by reason of casual sales, see section 3251 (a) and (b).

(b) *Retail dealers in liquors*—(1) *In general.* Except as provided in paragraph (3) of subsection (e), retail dealers in liquors shall pay a special tax of $50.

(2) *Retail drug stores or pharmacies.* The tax required to be paid by paragraph (1) shall in the case of a retail drug store or pharmacy making sales of liquors through a duly licensed pharmacist, be designated as a "medicinal spirits stamp tax."

(3) *Retail dealers in liquors dealing in wines or wines and malt liquors.* For the designation of retail dealers in liquors as retail dealers in wines and malt liquors, and the issuance of appropriate special tax stamps, see section 3254 (c) (1).

(4) *Wholesalers selling at retail.* A qualified wholesale dealer in liquors may not sell distilled spirits, wines, or malt liquors in quantities of less than five wine gallons without incurring liability to special tax as a retail dealer in liquors.

(5) *Creditors, fiduciaries, officers of court, and partners.* For exemption of creditors, fiduciaries, officers of court, and partners from the payment of any special tax by reason of casual sales, see section 3251 (a) and (b).

(c) *Brewers*—(1) *In general.* Brewers shall pay $110 in respect of each brewery: *Provided,* That any brewer of less than 500 barrels a year shall pay the sum of $55.

(2) *Cross reference.* For effect upon special tax of purchases or sales of malt liquors by brewers, see paragraph (3) of subsection (d).

(d) *Wholesale dealers in malt liquors*—(1) *In general.* Wholesale dealers in malt liquors shall pay a special tax of $100.

(2) *Retailers selling at wholesale.* A qualified retail dealer in malt liquors may not sell such liquors in quantities of five gallons or more to the same person at the same time without incurring liability to special tax as a wholesale dealer in malt liquors. No retail dealer in malt liquors shall be held to be a wholesale dealer in malt liquors solely by reason of sales of five gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

(3) *Brewers selling at wholesale.* No brewer shall be obliged to pay special tax as a dealer by reason of selling in the original stamped hogsheads, barrels, or kegs, whether at the place of manufacture or elsewhere, malt liquors manufactured by him, or purchased and procured by him in his own hogsheads, barrels, or kegs, under provisions of section 3155 (f), but the quantity of malt liquors so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same.

(4) *Retail dealers in liquidation.* For exemption of retailers liquidating entire stock from payment of special tax as wholesalers, see section 3251 (c).

(e) *Retail dealers in malt liquors*—(1) *In general.* Retail dealers in malt liquors shall pay a special tax of $22.

(2) *Wholesalers selling at retail.* A qualified wholesale dealer in malt liquors may not sell such liquors in quantities of less than five gallons without incurring liability to special tax as a retail dealer in malt liquors.

(3) *Persons selling to entertainments and outings.* Notwithstanding the provisions of this part, each person making sales of fermented malt liquor or wine to the members, guests, or patrons of bona-fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization making sales of fermented malt liquor or wine on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, if such person or organization is not otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail malt liquor dealer, shall pay, before any such sales are made and in lieu of the special taxes imposed by paragraph (1) of this subsection and of subsection (b) a special tax of $2.20 as a retail dealer in malt liquors, if fermented malt liquor only is sold, or a special tax of $2.20 as a retail dealer in liquors if wine only, or wine and fermented malt liquor only, are sold for each calendar month in which any such sales are made.

(4) *Brewers selling at retail.* No collection of special tax as a retail dealer in malt liquors shall be made from brewers for selling malt liquors of their own manufacture in the original stamped eighth-barrel packages.

(5) *Other provisions.* For other provisions relating to brewers as dealers, see paragraph (3) of subsection (d).

(6) *Transfer of duties.* For transfer of the powers and duties of the Commissioner and his agents, see section 3170.

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(g) *Winemakers.* Nothing in this chapter or chapter 26 shall be construed to impose a special tax upon winemakers who have qualified as such under the internal-revenue laws and regulations, and who sell wines of their own production where the same are made or at the general business office of such winemaker: *Provided,* That no winemaker shall have more than one place of business for the sale of such wine that shall be exempt from the special tax.

(h) *Apothecaries.* No special tax shall be imposed upon apothecaries as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

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(k) *Cross reference.* For transfer of the powers and duties of the Commissioner and his agents, see section 3170.

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§ 194.0–12 *Casual sales.*

26 U. S. C. 3251. CASUAL SALES.

(a) *By creditors, fiduciaries, and officers of court.* No special tax shall be held to accrue on a sale of distilled spirits, wines, or malt liquors made by a person who is not otherwise a dealer in liquors, where such spirits, wines, or liquors have been received by the person so selling as security for or in payment of a debt, or as executor, administrator, or other fiduciary, or have been levied on by any officer, under order or process of any court or magistrate, and where such spirits are sold by such person in one parcel only, or at public auction in parcels not less than twenty wine-gallons.

(b) *By retiring or deceased partners to incoming or remaining partners.* No special tax shall be held to accrue on a sale of distilled spirits, wines, or malt liquors made by a retiring partner, or the representatives of a deceased partner to the incoming, remaining, or surviving partner or partners of a firm.

(c) *By retail dealers in liquidation.* The special tax of a wholesale dealer in liquors or wholesale dealer in malt liquors shall not be held to apply to a retail dealer in liquors or a retail dealer in malt liquors, because of such retail dealer selling out his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of malt liquors. Section 2860 shall not be held to prohibit a rectifier or liquor dealer from purchasing, in quantities greater than twenty wine-gallons, the distilled spirits sold in one parcel as aforesaid.

§ 194.0–13 *Retail liquor dealers' records.*

26 U. S. C. 3252. RETAIL LIQUOR DEALERS' RECORDS.

(a) *Requirement.* Each retail liquor dealer shall provide at his own expense, and keep in his place of business, a record in book form, or shall keep all invoices of, and bills for, all distilled spirits, wines, and fermented malt liquors received, the quantity thereof, and from whom and the date when received.

(b) *Inspection.* Such records, invoices, and bills shall be open to inspection during the usual business hours of the retailer by Government officers upon identification and request.

(c) *Preservation.* Such records, invoices, and bills shall be kept for a period of two years after the time of the transactions to which they relate.

(d) *Penalty.* For each willful violation of the provisions hereof the retailer shall be subject to a fine of $25.

§ 194.0–14 *Penalties and forfeitures for nonpayment of special tax.*

26 U. S. C. 3253. PENALTIES AND FORFEITURES FOR NONPAYMENT OF SPECIAL TAX.

Any person who shall carry on the business of a brewer, rectifier, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquors, retail dealer in malt liquors, or manufacturer of stills, and willfully fails to pay the special tax as required by law, shall, for every such offense, be fined not less than $100 nor more than $5,000 and be imprisoned for not less than thirty days nor more than two years. And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in any building, room, yard, or enclosure connected therewith and used with or constituting a part of the premises, shall be forfeited to the United States.

§ 194.0–15 *Definitions.*

26 U. S. C. 3254. DEFINITIONS.

(a) *Distiller.* For definition of distiller, see section 2809 (a).

(b) *Wholesale dealer in liquors.* Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities or five wine-gallons or more to the same person at the same time, shall be regarded as a wholesale dealer in liquors: *Provided,* That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "wholesale dealer in wines" or a "wholesale dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a wholesale dealer in liquors.

(c) *Retail dealer in liquors.* Except as otherwise provided, (1) every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in less quantities than five wine-gallons to the same person at the same time, shall be regarded as a retail dealer in liquors: *Provided,* That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "retail dealer in wines" or a "retail dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a retail dealer in liquors.

(2) No retail dealer in liquors shall be held to be a wholesale dealer in liquors solely by reason of sales of five wine-gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

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(e) *Wholesale dealer in malt liquors.* Except as otherwise provided, every person who sells, or offers for sale, malt liquors in quantities of five gallons or more, to the same person at the same time, and who does not deal in distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in malt liquors.

(f) *Retail dealer in malt liquors.* Except as otherwise provided, every person who sells, or offers for sale, malt liquors in less quantities than five gallons to the same person at the same time, and does not deal in distilled spirits or wines, shall be regarded as a retail dealer in malt liquors.

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§ 194.0–16 *Liability in case of business in more than one location.*

26 U. S. C. 3255. LIABILITY IN CASE OF BUSINESS IN MORE THAN ONE LOCATION.

(a) *Retail dealers in liquors or malt liquors.* Any retail dealer in liquors or retail dealer in malt liquors whose business is such as to require him to travel from place to place in different States of the United States may, under regulations prescribed by the Commissioner, with the approval of the Secretary, procure a special-tax stamp "At large" covering his activities throughout the United States with the payment of but one special tax as a retail dealer in liquors or as a retail dealer in malt liquors, as the case may be.

(b) *Dealers in liquors or malt liquors.* Nothing contained in this chapter shall prevent the issue, under such regulations as the Commissioner may prescribe, of special tax stamps to persons carrying on the business of retail dealers in liquors, or retail dealers in malt liquors, upon passenger railroad trains or upon steamboats or other vessels engaged in the business of carrying passengers.

(c) *Dealers in liquors or malt liquors making sales on purchaser dealers' premises.* No wholesale or retail dealer in liquors or wholesale or retail dealer in malt liquors who has paid the special tax as such a dealer shall again be required to pay special tax as such dealer on account of sales of beer, lager beer, ale, porter, or other similar fermented malt liquor to wholesale or retail dealers in liquors or wholesale or retail dealers in malt liquors consummated at the purchaser's place of business covered by the stamp issued to him to denote the payment of the special tax imposed upon such dealers.

§ 194.0–17 *Registration.*

26 U. S. C. 3270. REGISTRATION.

(a) *Requirements.* Every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) *Cross references.*

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§ 194.0–18 *Payment of tax.*

26 U. S. C. 3271. PAYMENT OF TAX.

(a) *Condition precedent to doing business.* No person shall be engaged in or carry on any trade or business mentioned in this chapter until he has paid a special tax therefor in the manner provided in this chapter.

(b) *Due date.* All special taxes shall become due on the 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the 1st day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) *How paid*—(1) *Stamp.* All special taxes imposed by law, including the tax on stills or worms, shall be paid by stamps denoting the tax.

(2) *Assessment.* For authority of Commissioner to make assessments where the special taxes have not been duly paid by stamp, at the time and in the manner provided by law, see section 3640.

§ 194.0–19 *Returns.*

26 U. S. C. 3272. RETURNS.

(a) *Time for filing.* It shall be the duty of the special taxpayers to render their returns with remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided for in section 3634.

(b) *Transfer of duties.*

* * * * *

(c) *Penalties.* For penalties imposed for failure to file returns or for making false or fraudulent returns, see section 3612.

§ 194.0–20 *Stamps.*

26 U. S. C. 3273. *Stamps.*

(a) *Supply.* The Commissioner is required to procure appropriate stamps for the pay-

ment of all special taxes imposed by law, including the tax on stills or worms; and the provisions of section 2802 (a) and of sections 3300, 3301, and 3302, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco, and cigars, shall, so far as applicable, extend to and include such stamps for special taxes; and the Commissioner shall have authority to make all needful regulations relative thereto.

(b) *Posting.* Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax.

(c) *Transfer of duties.*

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§ 194.0–21 *Penalties relating to posting of special tax stamp.*

26 U. S. C. 3274. PENALTIES RELATING TO POSTING OF SPECIAL TAX STAMP.

Any person who shall, through negligence, fail to place and keep stamps denoting the payment of the special tax as provided in section 3273 (b) shall be liable to a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than $10. And where the failure to comply with the provisions of section 3273 (b) shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed: *Provided,* That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

§ 194.0–22 *List of special-taxpayers for public inspection.*

26 U. S. C. 3275. LIST OF SPECIAL-TAXPAYERS FOR PUBLIC INSPECTION.

(a) *In collector's office.* Each collector shall, under regulations of the Commissioner, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality, he shall furnish a certified copy thereof, as of a public record, for which a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested, may be charged.

(b) *Transfer of duties.*

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§ 194.0–23 *Application of State laws.*

26 U. S. C. 3276. APPLICATION OF STATE LAWS.

The payment of any tax imposed by the internal revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

§ 194.0–24 *Liability of partners.*

26 U. S. C. 3277. LIABILITY OF PARTNERS.

Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

§ 194.0–25 *Liability in case of business in more than one location.*

26 U. S. C. 3278. LIABILITY IN CASE OF BUSINESS IN MORE THAN ONE LOCATION.

The payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as provided in this chapter for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business.

§ 194.0–26 *Liability in case of different businesses of same ownership and location.*

26 U. S. C. 3279. LIABILITY IN CASE OF DIFFERENT BUSINESSES OF SAME OWNERSHIP AND LOCATION.

Whenever more than one of the pursuits or occupations described in this chapter are carried on in the same place by the same person at the same time, except as otherwise provided in this chapter, the tax shall be paid for each according to the rates severally prescribed.

§ 194.0–27 *Liability in case of death or change of location.*

26 U. S. C. 3280. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

(a) *Requirements.* When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the collector's register at the place to which he removes, without the payment of any additional tax: *Provided,* That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the collector, under regulations to be prescribed by the Commissioner.

(b) *Registration.*

* * * * *

(c) *Transfer of duties.*

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§ 194.0–28 *Establishment and alteration.*

26 U. S. C. 3300. ESTABLISHMENT AND ALTERATION.

(a) *Authorization.* The Commissioner, with the approval of the Secretary, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue.

(b) *Application of penalty and forfeiture provisions.* All pains, penalties, fines, and forfeitures provided by law relating to internal revenue stamps shall apply to and have full force and effect in relation to any and all stamps so established by the Commissioner.

(c) *Cross references.* For other provisions giving the Commissioner general authority to establish, alter, and renew stamps, see section 3301 (a) (2).

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§ 194.0–29 *Redemption of stamps.*

26 U. S. C. 3304. REDEMPTION OF STAMPS.

(a) *Authorization.* The Commissioner, subject to regulations prescribed by the Secretary, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the said Commissioner, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

(d) *Finality of Commissioner's decisions.* The finding of facts in and the decision of the Commissioner upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

* * * * *

§ 194.0–30 *Period of limitation upon refunds and credits.*

26 U. S. C. 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.

§ 194.0–31 *Entry of premises for examination of taxable objects.*

26 U. S. C. 3601. ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS.

(a) *Authority*—(1) *Entry during day.* Any collector, deputy collector, internal revenue agent, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced,

or kept, within his district, so far as it may be necessary for the purpose of examining said articles or objects.

§ 194.0–32 *Returns executed by Commissioner or Collector*

26 U. S. C. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

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

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

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

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

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

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

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

(3) *Cross reference.* For additions to tax in the case of income tax, see sections 291 and 293, and in the case of a deficiency in gift tax, see section 1019.

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

(f) *Determination and assessment.* The Commissioner shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section.

§ 194.0–33 *Extension of time for filing returns.*

26 U. S. C. 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.

§ 194.0–34 *Payment by check and money orders.*

26 U. S. C. 3656. PAYMENT BY CHECK AND MONEY ORDERS.

(a) *Certified, cashiers' and treasurers' checks and money orders*—(1) *Authority to receive.* It shall be lawful for collectors to receive for internal revenue taxes or in payment of stamps to be used in payment of internal revenue taxes certified, cashiers' and treasurers' checks drawn on National and State banks and trust companies, and United States postal, bank, express, and telegraph money orders, during such time and under such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(b) *Other checks.*—(1) *Authority to receive.* Collectors may receive checks in addition to those specified in subsection (a) in payment of taxes other than those payable by stamp during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

§ 194.0–35 *Receipts for taxes.*

26 U. S. C. 3659. RECEIPTS FOR TAXES.

(a) *In general.* Every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

* * * * *

§ 194.0–36 *Authority to make abatements, credits, and refunds.*

26 U. S. C. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

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

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

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

(4) *Credit of overpayment of one class of tax against another class of tax due.* Notwithstanding any provision of law to the contrary, the Commissioner may, in his discretion, in lieu of refunding an overpayment of tax imposed by any provision of this title, credit such overpayment against any tax due from the taxpayer under any other provision of this title.

(5) *Delegation of authority to collectors to make refunds.* The Commissioner, with the approval of the Secretary, is authorized to delegate to collectors any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), (3), or (4) of this subsection, or under section 322 or 1027, where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000.

(6) *Cross references.*

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§ 194.0–37 *Rules and regulations.*

26 U. S. C. 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.

§ 194.0–38 *Verification of returns; penalties of perjury.*

26 U. S. C. 3809. VERIFICATION OF RETURNS; PENALTIES OF PERJURY.

(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

Subpart A—Scope of Regulations

§ 194.1 *Wholesale and retail dealers in liquors.* These regulations, "Regulations 20, Wholesale and Retail Dealers in Liquors" (26 CFR Part 194) contain the procedural and substantive requirements relative to special taxes and other requirements as to wholesale and retail dealers in distilled spirits, wines, and fermented malt liquors. The provisions of this part cover special taxes incurred through the sale of liquors, changes in location, proprietorship, or control of premises subject to special tax; refunds and redemption of special tax stamps; packaging of alcohol for industrial purposes; use of bottle strip stamps; and the maintenance of records by dealers in liquors.

§ 194.2 *Territorial extent.* The provisions of this part shall be applicable to the several States of the United States, the Territories of Alaska and Hawaii, and the District of Columbia.

Subpart B—Definitions

§ 194.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 194.6 *Assistant Regional Commissioner* "Assistant Regional Commis-

sioner" shall mean an Assistant Regional Commissioner, Alcohol and Tobacco Tax.

§ 194.7 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 194.8 *District Director.* "District Director" shall mean a District Director of Internal Revenue.

§ 194.9 *Fiscal year.* "Fiscal year" shall mean the period from July 1 of each calendar year to and including June 30 of the following calendar year.

§ 194.10 *Gallon.* "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

§ 194.11 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 194.12 *Person.* "Person" shall include a natural person, corporation, partnership, trust or estate, joint-stock company, association or other unincorporated organization or group, fiduciary, a State, city, county, municipality, or other political subdivision.

§ 194.13 *U. S. C.* "U. S. C." shall mean the United States Code.

Subpart C—Special Taxes

§ 194.20 *Basis of tax.* Special taxes are imposed upon the engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage. No person shall be engaged in or carry on any business or occupation hereinafter mentioned unless he has paid special tax therefor in the manner provided in this part.

(53 Stat. 388 as amended, 391; 26 U. S. C. 3250, 3253)

§ 194.21 *Agents and auctioneers.* A person who sells merely as the agent or employee of another is not subject to special tax. Auctioneers selling on behalf of others are within this category.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.22 *Selling or offering for sale.* Whether the activities of any person constitute selling or offering for sale is to be determined by the facts in each case, but any course of selling, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.23 *Single sale.* A single sale, unattended by circumstances showing the one making the sale to be engaged in business, does not create special tax liability.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.24 *Brokers or agents.* A broker or agent may solicit orders for liquors in the name of a customer or principal, receive a commission for his services and make collections for his customer or principal without incurring liability to special tax. A retail dealer in liquors, or a retail dealer in malt liquors, receiving and transmitting to a wholesale dealer orders for liquors or malt liquors, as the case may be, in wholesale quantities does not incur liability to special tax as a wholesale dealer if he merely transmits the orders and the liquors or malt liquors, as the case may be, are billed, charged, and shipped to the customers by the wholesaler. No special tax liability is incurred even though the retail dealer receives a commission on such sales or guarantees the payment of the accounts.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.25 *Classification of alcoholic liquors.* There are three general classifications of alcoholic liquors for purposes of special tax: (a) distilled spirits, (b) wines, and (c) fermented malt liquors. Distilled spirits include alcohol, whisky, brandy, gin, rum, vodka, cordials, liqueurs, cocktails, etc. Wines include still wines, champagne, sparkling and carbonated wines, vermouth, etc. Fermented malt liquors include such products as beer, ale, stout, porter, sake, etc.

(53 Stat. 298 as amended, 347 as amended, 365 as amended; 26 U. S. C. 2800, 3030, 3150)

§ 194.26 *Retail dealers in liquors; persons liable.* Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as provided in this part, in less quantities than 5 wine gallons to the same person at the same time is a retail dealer in liquors and shall pay the special tax imposed.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.27 *Lawful sales by retail dealer in liquors.* A person who pays special tax as a retail dealer in liquors may sell either distilled spirits, wines, or malt liquors, or any two or all three of them. He may sell all three classes of liquors to the same person at the same time: *Provided,* That the quantity of each class is less than 5 wine gallons. For example, he may sell 4 gallons of distilled spirits, 4 gallons of wine, and 4 gallons of malt liquors in one transaction. He may not sell either distilled spirits, wines, or malt liquors in quantities of 5 wine gallons or more to the same person at the same time without incurring liability to special tax as wholesale dealer in liquors.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.28 *Wholesale sales by retail dealer in liquors.* Where a retail dealer in liquors accepts an order for 5 wine gallons or more of distilled spirits or wines, a transaction has been made in a wholesale quantity, notwithstanding the order is filled and delivery is made in parcels of less than 5 wine gallons and on different dates. Except as provided in § 194.180, liability to special tax as a wholesale liquor dealer is incurred where two or more orders for 5 wine gallons or more are accepted under such conditions during a fiscal year, or where circumstances surrounding acceptance of a single order show the person is engaged in business as a wholesale liquor dealer. Similarly, liability to special tax as a wholesale dealer in malt liquors is incurred by a retail dealer in liquors when he accepts orders for 5 wine gallons or more of malt liquors, except as provided in § 194.181.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.29 *Wholesale dealers in liquors; persons liable.* Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities of 5 wine gallons or more to the same person at the same time is a wholesale dealer in liquors and shall pay the special tax imposed.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.30 *Retail sales by wholesale dealers in liquors.* A wholesale dealer in liquors who sells or offers for sale distilled spirits, wines, or malt liquors in quantities of less than 5 wine gallons to the same person at the same time must pay special tax as a retail dealer in liquors.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.31 *Retail dealers in malt liquors; persons liable.* Every person who sells, or offers for sale, malt liquors in less quantities than 5 gallons to the same person at the same time, and who does not sell or offer for sale distilled spirits or wines, shall be regarded as a retail dealer in malt liquors and shall pay the special tax imposed.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.32 *Wholesale sales by retail dealers in malt liquors.* A retail dealer in malt liquors who sells, or offers for sale, malt liquors in quantities of 5 gallons or more to the same person at the same time subjects himself to special tax as a wholesale dealer in malt liquors.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.33 *Retail dealer in malt liquors selling other classes of alcoholic liquors.* When a retail dealer in malt liquors sells, or offers for sale, other classes of alcoholic liquors in quantities of less than 5 wine gallons to the same person at the same time, he must pay special tax as retail dealer in liquors.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.34 *Wholesale dealers in malt liquors; persons liable.* Every person who sells, or offers for sale, malt liquors in quantities of 5 gallons or more to the same person at the same time, and who does not sell or offer for sale distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in malt liquors and shall pay the special tax imposed.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.35 *Retail sales by wholesale dealers in malt liquors.* A wholesale dealer in malt liquors may not sell or offer for sale such liquors in quantities of less than 5 gallons to the same person at the same time without incurring liability to special tax as a retail dealer in malt liquors.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.36 *Wholesale dealer in malt liquors selling other classes of alcoholic liquors.* A wholesale dealer in malt liquors may not sell, or offer for sale, distilled spirits or wines without incurring liability to special tax as a retail or wholesale dealer in liquors, depending upon the quantity sold to the same person at the same time.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.37 *Sales to members by clubs or similar organization.* A club or similar organization furnishing liquors to its members under conditions constituting sale is required to pay special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.38 *Club or similar organization accepting orders from members.* A club or similar organization which sells liquors to its members by accepting orders therefor, furnishing the liquors so ordered and collecting the price thereof, is required to pay special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.39 *Bar conducted by club or similar organization at outings.* A club or similar organization conducting a bar for the sale of liquors, on the occasion of an outing, picnic, or other entertainment, must pay special tax. The special tax stamp held by the proprietor of the premises where the bar is located will not relieve the club or similar organization from special tax liability.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.40 *Purchases by club or similar organization for members.* Special tax is not incurred when a club or similar organization collects money in advance from its members for the purchase of liquors for their consumption, or advances such money upon an agreement with the members for reimbursement. However, special tax is incurred if the club or similar organization purchases liquors without prior agreement with the members and subsequently recoups.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.41 *Restaurants serving liquors with meals.* Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, are required to pay special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.42 *Hospitals.* Hospitals and similar institutions furnishing liquors to patients are not required to pay special tax, provided no specific or additional charge is made for the liquors so furnished.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.43 *States, counties, and municipalities.* A State, county, city, municipality, or other political subdivision engaged in the business of selling, or offering for sale, liquors is not exempt from the payment of special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.44 *Sales in violation of State law.* Persons who engage in the sale, or offering for sale, of liquors in violation of State laws, are required to pay special tax. The special tax stamp is not a license or permit, and does not protect such persons from prosecution under the State laws.

(53 Stat. 395; 26 U. S. C. 3276)

§ 194.45 *Sales of denatured alcohol or articles.* Any person who sells denatured alcohol, denatured rum, or any substance or preparation made with or containing denatured alcohol or denatured rum, for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax.

(53 Stat. 359; 26 U. S. C. 3111)

§ 194.46 *Sales by agencies and instrumentalities of the United States.* Section 3283 of the Internal Revenue Code, effective September 23, 1950, provides that any tax imposed by Chapter 27 of the Internal Revenue Code shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax. Accordingly, any agency or instrumentality of the United States, including post exchanges, ship's stores, ship's service stores, and commissaries established and conducted under the regulations of the Department of Defense, engaging in the business of selling, or offering for sale, alcoholic liquors, must pay special tax for the carrying on of such business on and after September 23, 1950. Any canteen, club, mess or similar organization operated under regulations of the Department of Defense, whether or not located on the premises of the Department of Defense, selling, or offering for sale, liquors, is liable to special tax for any period during which the organization carries on the business.

(53 Stat. 391, 64 Stat. 964; 26 U. S. C. 3254, 3283)

§194.47 *Warehouse receipts covering spirits.* Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every person who sells, or offers for sale, warehouse receipts for distilled spirits held in registered or fruit distilleries or stored in internal revenue bonded warehouses, customs bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold, or offered for sale, and must file return and pay occupational tax as provided in §§ 194.103 and 194.104, unless exempted by the provisions of §§ 194.189–194.194 and 194.197.

(53 Stat. 388 as amended, 391; 26 U. S. C. 3250, 3254)

§ 194.48 *Single sale of warehouse receipts by an investor* A single sale involving one or more warehouse receipts by an investor, as distinguished from one who is engaged in the business of selling warehouse receipts, does not subject the vendor to special tax.

(53 Stat. 390; 26 U. S. C. 3251)

LIMITED SPECIAL TAX

§ 194.49 *Sales of wines and malt liquors at fairs, picnics and similar entertainments.* Each person desiring to sell fermented malt liquor or wine, or both, at retail to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization desiring to sell fermented malt liquor or wine, or both, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, may obtain from the District Director for each calendar month for which any such sales are to be made (a) a retail dealer in malt liquor limited special tax stamp, if fermented malt liquor only is to be sold, or (b) a retail dealer in liquors limited special tax stamp, if wine only, or wine and fermented malt liquor only, are to be sold. Application on Form 11, and payment of the special tax of $2.20 shall be made to the District Director before any such sales are made.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.50 *Persons who may not procure limited special tax stamps.* No person or organization otherwise engaged in business as a wholesale or retail dealer in liquors, or as a wholesale or retail dealer in malt liquors, will be permitted to procure a limited special tax stamp as a retail dealer in liquors or as a retail dealer in malt liquors.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.51 *Change of location.* A person holding a limited ($2.20) special tax stamp as a retail dealer in liquors or as a retail dealer in malt liquors may, during the calendar month for which the stamp is issued, remove his business to a location other than that stated on the stamp and continue such business for the remainder of the calendar month without paying additional special tax, provided the removal is registered with the District Director, as provided in §§ 194.150–194.152.

(53 Stat. 396; 26 U. S. C. 3280)

Subpart D—Places Subject to Special Tax

§ 194.60 *Each place of business taxable.* Except as provided in §§194.182 and 194.183, liability to special tax is incurred at each and every place where distilled spirits, wines, or malt liquors are sold or offered for sale.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.61 *Place of sale.* The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.62 *Place of offering for sale.* Liquors are offered for sale (a) at the place where they are kept for sale and where a sale may be effected, or (b) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office elsewhere for the mere purpose of taking orders, provided in each case the orders received by the agent are transmitted to the principal for acceptance at the place where the principal holds a special tax stamp.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.63 *Place of storage.* Special tax is not required to be paid for warehouses and similar places which are used by dealers merely for the storage of liquors and which are not places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where a special tax stamp is held, the subsequent actual delivery of the liquors from a place of stor-

age does not require the payment of special tax at such place of storage. A dealer holding a special tax stamp at a given place, who permits actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp, is liable for special tax at the place of delivery.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.64 *Caterers.* Where the contract of a caterer for the furnishing of a dinner, including liquors, is made at his place of business where he holds a special tax stamp, no liability to special tax is incurred by the serving of the liquors at a different location.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.65 *Peddling.* Except as set forth in §§ 194.182 and 194.183, internal revenue laws do not contemplate the peddling of distilled spirits, wines, or malt liquors, nor permit the issuance of any special tax stamp to cover peddling activities. Persons peddling liquors and not meeting the exemption in §§ 194.182 and 194.183, are subject to special tax at each place where sales are consummated.

(53 Stat. 395; 26 U. S. C. 3278)

SALES AT TWO OR MORE BARS ON THE SAME PREMISES

§ 194.66 *Two or more bars with intercommunication.* Where an owner or lessee conducts two or more bars, which have such intercommunication as will enable patrons to move freely from one bar to another without leaving the premises under his control, the various bars shall be regarded as parts of one place of business for which but one special tax stamp is required.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.67 *Two or more bars without intercommunication.* Where the proprietor of premises, other than those described in §§ 194.69 and 194.70, lets to another the privilege of selling liquors thereon at two or more bars, which are separated from each other by space under the control of the proprietor or any other person, such bars shall be regarded as separate places of business and special tax must be paid for each bar.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.68 *Segregated establishment.* One special tax stamp is not sufficient to cover the operation of two bars on the same premises, if the proprietor excludes, for example, Negroes from the bar reserved for whites, or whites from the bar reserved for Negroes. One special tax stamp is sufficient for one bar at which, for example, both whites and Negroes are served, notwithstanding the races are separated by a partition.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.69 *Hotel, ball park, race track, etc.; sales throughout the premises.* The proprietor of a hotel, ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises, who engages in the business of selling liquors throughout such enclosure, including sales from baskets or containers by his employees in his behalf, is required to pay but one special tax for such enclosure. Each concessionaire having the same privilege throughout the enclosure, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, or concessionaires, is likewise required to pay but one special tax for such enclosure.

(53 Stat. 395; 26 U. S. C. 3278)

§ 194.70 *Hotel, ball park, race track, etc., sales confined to limited area.* Where the proprietor of a hotel, ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises confines the operations of a concessionaire, or concessionaires, to a limited area, or areas, within the enclosure, special tax is due from each concessionaire for each such area regardless of the number of bars therein: *Provided,* That if there are two or more bars within one such limited area, there must be intercommunication within such area freely open to the public, otherwise special tax will be due for each place of sale. A proprietor who reserves the right to sell liquor within an enclosure where a limited concession, or concessions, have been granted, but outside the area, or areas, allotted to the concessionaire, or concessionaires, is subject to one special tax unless the space, or spaces, reserved by the proprietor are completely separated by the area, or areas, allotted to the concessionaire, or concessionaires, in which case the proprietor is subject to special tax for each such separate space where sales are made and is also subject to the ruling as to intercommunication, if two or more bars are maintained in any area.

(53 Stat. 395; 26 U. S. C. 3278)

Subpart E—Each Business Taxable

§ 194.80 *Different businesses of same ownership and location.* Where more than one taxable business is conducted by the same person at the same place, special tax for each business must be paid at the rates severally prescribed.

(53 Stat. 396; 26 U. S. C. 3279)

§ 194.81 *Retail and wholesale dealer in liquors at same location.* A person who engages in or carries on the businesses of a retail and wholesale dealer in liquors (different businesses under the law) at the same place is subject to special tax for each business.

(53 Stat. 396; 26 U. S. C. 3279)

§ 194.82 *Retail and wholesale malt liquor dealer at same location.* A person who engages in or carries on the businesses of a retail and wholesale malt liquor dealer (different businesses under the law) at the same place is subject to special tax for each business.

(53 Stat. 396; 26 U. S. C. 3279)

§ 194.83 *Retail dealer in malt liquors and retail dealer in liquors at same location.* A person who begins business as a retail dealer in malt liquors and procures the requisite special tax stamp as such, and thereafter during the same or a subsequent month begins business as a retail dealer in liquors (a different business under the law) must pay special tax and procure a special tax stamp as a retail dealer in liquors. Under such conditions, the retail dealer in malt liquors special tax stamp is not subject to redemption.

(53 Stat. 396; 26 U. S. C. 3279)

§ 194.84 *Mixing cocktails.* A retail dealer in liquors who mixes cocktails or compounds any alcoholic liquors in advance of sale, except for the purpose of filling, for immediate consumption on the premises, orders received at the bar or in the expectation of the immediate receipt of such orders, incurs liability to special tax as a rectifier.

(53 Stat. 396; 26 U. S. C. 3279)

Subpart F—Partnerships

§ 194.90 *Liability of partners.* Any number of persons carrying on one business in copartnership at any one place during any fiscal year shall be required to pay but one special tax for such business.

(53 Stat. 388 as amended, 394, 395; 26 U. S. C. 3250, 3270, 3277)

§ 194.91 *Preparation of special tax stamp.* In issuing a special tax stamp to a partnership, the District Director shall show thereon the name of each and every person disclosed on the partnership's Form 11, followed by the firm or trade name, if any. The issuance by the District Director of a special tax stamp in a firm or trade name only is not authorized.

(53 Stat. 388 as amended, 394, 395; 26 U. S. C. 3250, 3270, 3277)

§ 194.92 *Addition of partners or incorporation of partnership.* Where a number of persons who have paid special tax as copartners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation so formed shall pay special tax computed from the first day of the month in which it commenced business.

(53 Stat. 388 as amended, 394, 395; 26 U. S. C. 3250, 3270, 3277)

§ 194.93 *Formation of a partnership by two dealers.* Where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm must pay special tax to cover the business conducted by the partnership.

(53 Stat. 388 as amended, 394, 395; 26 U. S. C. 3250, 3270, 3277)

§ 194.94 *Withdrawal of one or more partners.* When a member, or members, withdraw from the partnership the remaining partner, or partners, may, without incurring additional special tax liability, carry on the same business at the same address for the balance of the taxable period for which special tax was paid, provided the partner, or partners, remaining file with the District Director from whom the special tax stamp was purchased, within 30 days after the date he or they begin to carry on the business, a return on Form 11, showing the basis of succession. If the notice of succession is not filed with the District Director

within 30 days from the date the remaining partner, or partners, begin to carry on the business, he or they will become liable to additional special tax computed from the 1st day of the calendar month in which he or they began to carry on the business to and including June 30 following. (See §§ 194.168–194.171.)

(53 Stat. 388 as amended, 394, 395; 26 U. S. C. 3250, 3270, 3277)

Subpart G—Payment of Special Tax

§ 194.100 *Special tax rates.* Special taxes are imposed upon liquor dealers at the following annual (fiscal year) rates:

Retail dealers in liquors	$50.00
Wholesale dealers in liquors	200.00
Retail dealers in fermented malt liquors	22.00
Wholesale dealers in fermented malt liquors	100.00

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.101 *Date special tax is due.* All special taxes become due on the 1st day of July of each year, or on the 1st day of the month in which a taxable business or occupation is commenced.

(53 Stat. 394; 26 U. S. C. 3271)

§ 194.102 *Computation of special tax.* In the case of a person engaged in business during the month of July, the liability shall be reckoned for the entire fiscal year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately from the 1st day of the month in which business is commenced to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleven-twelfths of the annual tax. If business is discontinued before the end of the fiscal year, the amount of tax is not thereby reduced.

(53 Stat. 394; 26 U. S. C. 3271)

§ 194.103 *Filing of return and payment of special tax.* Persons liable to special tax shall render their returns on Form 11, with remittances to the District Director of the district in which the business is carried on, at such time within the calendar month in which the special tax liability commenced as shall enable the District Director to receive such return and remittance not later than the last day of the month.

(53 Stat. 394; 26 U. S. C. 3272)

§ 194.104 *Method of payment.* Payment must be made in cash, or by United States post office money order, or certified check; uncertified checks will not be accepted.

(53 Stat. 394, 58 Stat. 912; 26 U. S. C. 3272, 3656)

SPECIAL TAX RETURN, FORM 11

§ 194.105 *Data required.* Special tax returns shall be made on Form 11, which may be procured from the District Director of Internal Revenue of the district in which the business is located, and shall disclose, in the space provided, the following:

(a) The true name of the taxpayer, which may be followed by the words "trading as" and any trade name under which the business may be conducted.

(b) In the case of a partnership, the true names of each and every person comprising the partnership.

(c) The exact location of the place of business, as by name and number of building or street and, where these do not exist, by some particularization in addition to the post office address.

(d) The kind of liquor business carried on.

(53 Stat. 394; 26 U. S. C. 3270)

§ 194.106 *Execution of Form 11.* The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by a member of the firm; and the return of a corporation shall be signed by an officer thereof. In each case, the person signing the return shall designate his capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., will indicate the fiduciary capacity in which they act. Returns signed by persons as agents will not be accepted unless they file with the District Director a power of attorney, authorizing them so to act. Form 11 must be verified by a written declaration that the return has been executed under the penalties of perjury.

(53 Stat. 394, 63 Stat. 667; 26 U. S. C. 3270, 3809)

§ 194.107 *Extensions of time for filing returns.* In the case of illness of the sole proprietor, or the unavoidable absence of the sole proprietor from his business, the District Director may grant such further extension of time, not exceeding 30 days from the date the return is due, for the filing of Form 11 as he deems proper. Application for extension of time for filing the return must be made in writing and addressed to the District Director of the district in which the business is located and must contain a full recital of the causes of delay.

(53 Stat. 394, 441; 26 U. S. C. 3272, 3634)

§ 194.108 *Penalty for failure to file return.* Any person liable to special tax who, without reasonable cause, fails to file a return on Form 11 within the calendar month in which special tax ability commenced shall be subject to a delinquency penalty computed on the total amount of special tax due. The penalty shall be 5 percent if the failure is not for more than 30 days, and an additional 5 percent for each additional 30 days or fraction thereof during which the delinquency continues, but not to exceed 25 percent in the aggregate.

(53 Stat. 437; 26 U. S. C. 3612)

DELINQUENT RETURNS

§ 194.109 *Reasonable causes for delinquency.* The penalty set forth in § 194.108 will be asserted and collected in every case in which a special tax return is not filed within the calendar month in which the tax liability commenced, unless an extension of time is granted under § 194.107 or a reasonable cause for delinquency is clearly established by the taxpayer. The following, when clearly established, may be accepted by District Directors and Assistant Regional Commissioners as reasonable causes:

(a) Where the return was mailed in time (whether or not the envelope containing the return had sufficient postage) to reach the District Director's office, in normal course of mails, on or before the last day of the month in which the special tax liability commenced. If the due date falls on a non-work day, whether Saturday, Sunday, or some other specified day, a return mailed in time to reach the District Director's office before the close of the first work day immediately following the due date shall be considered to have been timely filed.

(b) Where return was filed within the legal period but in the wrong internal revenue district, or directly in the Commissioner's office.

(c) Where the delay or failure to file was due to erroneous information given the taxpayer by an internal revenue officer or employee.

(d) Where the delay was caused by death or serious illness of the taxpayer or by serious illness in his immediate family.

(e) Where the delay was caused by unavoidable absence of the taxpayer.

(f) Where delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

(g) Where the taxpayer, prior to the time for filing return, made timely application to the District Director's office for proper blanks and these were not furnished him in sufficient time to permit the executed return to be filed on or before its due date.

(h) Where the taxpayer proves that he personally visited the office of the District Director or collection officer before the expiration of the time within which to file return for the purpose of securing information or aid properly to make out his return, and through no fault of his own was unable to see the representatives of the Service.

§ 194.110 *Other alleged causes.* Where other grounds are alleged as reasonable causes for delinquency in filing a return on Form 11, a statement in explanation thereof shall be filed by the taxpayer with the District Director with the Form 11, except as provided in § 194.111. The reasonableness of other alleged causes will be determined by the District Director on the facts submitted. The policy generally to be followed is that a cause for delinquency which appeals to a man of ordinary prudence and intelligence as a reasonable cause for delay in filing the return and which clearly negatives a willful intent to disobey the taxing statutes, or gross negligence, will be accepted as reasonable. Mere ignorance of the law will not be considered a reasonable cause.

(53 Stat. 437; 26 U. S. C. 3612)

§ 194.111 *Delinquency discovered by officer working under direction of Assistant Regional Commissioner* Where the delinquency is discovered by an internal revenue officer working under the direction of the Assistant Regional Commis-

sioner, and the return on Form 11 is filed by or with such officer, a statement in explanation of the delinquency shall be attached to the Form 11 and transmitted to the Assistant Regional Commissioner, who will determine the reasonableness of other alleged causes on the facts submitted.

(53 Stat. 437; 26 U. S. C. 3612)

§ 194.112 *Causes not considered reasonable.* Where grounds other than those listed in § 194.109 are alleged as reasonable causes, but it is determined by the Assistant Regional Commissioner or District Director, as the case might be, that the cause is not one to be considered as reasonable within the provisions of §§ 194.110 and 194.111 the penalty shall be asserted, entered on the District Director excise tax list, and collected.

(53 Stat. 437; 26 U. S. C. 3612)

Subpart H—Special Tax Stamps

§ 194.120 *Issuance of stamps.* Upon receipt of a return properly executed on Form 11, together with a remittance in the proper amount, the District Director will issue an appropriately designated stamp to the taxpayer. District Directors and collection officers are prohibited from issuing special tax stamps before the tax is fully paid.

(53 Stat. 394; 26 U. S. C. 3273)

§ 194.121 *Receipt in lieu of stamp prohibited.* District Directors and collection officers are prohibited from issuing a receipt in lieu of a stamp. A receipt may be furnished only pending the issuance of a stamp, or where the tax liability relates to a prior fiscal year.

(53 Stat. 448; 26 U. S. C. 3659)

§ 194.122 *Stamps covering business in violation of State law.* District Directors are without authority to refuse to issue a special tax stamp to a liquor dealer engaged in business in violation of State law. The stamp is not a Federal permit or license, but is merely a receipt for the tax. The stamp affords the holder no protection against prosecution for violation of State law.

(53 Stat. 395; 26 U. S. C. 3276)

§ 194.123 *Stamps not transferable.* A special tax stamp may not be sold or transferred to another dealer.

(53 Stat. 394; 26 U. S. C. 3273)

STAMPS FOR PASSENGER TRAINS AND VESSELS

§ 194.124 *General.* Special tax stamps may be issued to persons carrying on the business of retail dealers in liquors or retail dealers in malt liquors upon passenger railroad trains or upon steamboats or other vessels engaged in the business of carrying passengers. The regular retail liquor dealer and retail malt liquor dealer stamps shall be issued in such cases.

(53 Stat. 392; 26 U. S. C. 3255)

§ 194.125 *Transfer of special tax stamps.* Special tax stamps issued for the retailing of liquors on passenger trains and vessels are to be made in general terms "In the United States." The taxpayer may transfer such stamps from one passenger train or vessel to another on which he does business without registering the transfer with a District Director.

(53 Stat. 392; 26 U. S. C. 3255)

§ 194.126 *Sales on passenger trains and vessels.* The provisions of §§ 194.69 and 194.70 are equally applicable to passenger railroad trains and to steamboats or other vessels engaged in the business of carrying passengers.

(53 Stat. 392, 395; 26 U. S. C. 3255, 3278)

§ 194.127 *Vessel not engaged in carrying passengers.* A special tax stamp may not be issued for the retailing of liquor on any boat that is not engaged in the business of carrying passengers.

(53 Stat. 392; 26 U. S. C. 3255)

STAMPS FOR RETAIL DEALERS "AT LARGE"

§ 194.128 *General.* A retail liquor dealer or retail dealer in malt liquors whose business is such as to require him to travel from place to place in different States of the United States, such as those who sell at carnivals or circuses, may procure a special tax stamp "At Large" covering his activities throughout the United States with the payment of but one special tax as a retail dealer in liquors or as a retail dealer in malt liquors, as the case may be.

(53 Stat. 392; 26 U. S. C. 3255)

§ 194.129 *Form 11 to show nature of business.* A retail liquor dealer or retail dealer in malt liquors who desires a special tax stamp "At Large" will so note on Form 11 filed with the District Director to whom the special tax is paid, and will state thereon the nature of his business. Before issuing a special tax stamp "At Large," the District Director will satisfy himself that the applicant is entitled to obtain a stamp so designated.

(53 Stat. 392; 26 U. S. C. 3255)

§ 194.130 *Business in more than one State.* A special tax stamp "At Large" may not be issued to a dealer whose business does not require him to travel from place to place in more than one State.

(53 Stat. 392; 26 U. S. C. 3255)

STAMPS FOR DEALERS IN WINES ONLY, OR WINES AND MALT LIQUORS ONLY

§ 194.131 *General.* Retail and wholesale dealers in liquors who sell or offer for sale wines only, or wines and malt liquors only, may obtain stamps as retail or wholesale dealers in liquors, as the case may be, under the following designations upon application and payment of special tax at the annual (fiscal year) rates indicated:

Retail dealer in wines	$50.00
Retail dealer in wines and malt liquors	50.00
Wholesale dealer in wines	200.00
Wholesale dealer in wines and malt liquors	200.00

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.132 *Stamps as receipts for special taxes.* Special tax stamps as dealers in wines only, or dealers in wine and malt liquors only, are receipts for the special taxes imposed upon retail and wholesale liquor dealers, and the holders of such stamps are subject to all provisions of internal revenue laws and regulations relating to such dealers, except as provided in §§ 194.210–194.232, inclusive.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.133 *Sales of distilled spirits by dealers in wines or wines and malt liquors.* A qualified retail dealer in wines, or in wines and malt liquors, may also sell distilled spirits in less quantities than 5 wine gallons without payment of additional special tax. A qualified wholesale dealer in wines, or in wines and malt liquors, may also sell distilled spirits in quantities of 5 wine gallons or more without payment of additional special tax.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.134 *Stamps not exchangeable.* The holders of special tax stamps as dealers in wines only, or dealers in wine and malt liquors only, may not exchange them for the regular retail and wholesale liquor dealer stamps. In the absence of specific demand or application for such stamps, District Directors shall issue the regular stamps to persons paying special tax as retail or wholesale dealers in liquors.

(53 Stat. 391; 26 U. S. C. 3254)

MEDICINAL SPIRITS STAMPS

§ 194.135 *Stamps for drug stores and pharmacies selling through licensed pharmacists.* Proprietors of drug stores and pharmacies making sales of distilled spirits through duly licensed pharmacists, may procure stamps designated "Medicinal Spirits Stamp Tax" upon application and payment of special tax at the $50 annual rate. The holders of such stamps are subject to all provisions of internal revenue laws relating to retail liquor dealers. District Directors shall, in the absence of specific demand or application for such stamps, issue the regular retail liquor dealer special tax stamp.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

STAMP TO BE POSTED

§ 194.136 *General.* (a) A special-tax payer shall conspicuously display his special tax stamp in his place of business.

(b) A person holding a special tax stamp as a retail dealer in liquors or a retail dealer in malt liquors "At Large" must place and keep the stamp conspicuously posted at the place where he is conducting such business.

(53 Stat. 394, 395; 26 U. S. C. 3273, 3274)

MISSING STAMPS

§ 194.137 *Lost or destroyed.* If a special tax stamp has been lost or destroyed, the taxpayer should immediately notify the District Director of internal revenue. A "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" will be issued to the taxpayer who submits an affidavit showing to the satisfaction of the District Director that the stamp was lost or destroyed. The certificate must be posted in place of the stamp; otherwise, liability for failure to post the stamp will be incurred.

§ 194.138 *Seizure by State authorities.* Where a stamp designated "Retail Dealer in Liquors" is seized by State authorities because it does not conform to the dealer's local license or permit (wine, or wine and beer), the District Director will, upon request, issue a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" to show that the dealer has paid special tax as a "Retail Dealer in Wine" or "Retail Dealer in Wines and Malt Liquors," as the case may require. However, where a special tax stamp has been seized by State authorities because the dealer has operated in violation of local law, a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" will not be issued by the District Director.

CORRECTION OF ERRORS ON SPECIAL TAX STAMPS

§ 194.139 *Errors disclosed by taxpayers.* On receipt of a special tax stamp, the taxpayer will examine it to insure that the name and address are correctly stated. If an error has been made, the stamp should be returned to the District Director, with a statement showing the nature of the error and the proper name or address. The District Director, on receipt of such stamp and statement, will compare the data with that on Form 11, and if an error on the part of the District Director has been made, will make the necessary correction and return the stamp to the taxpayer. If the Form 11 agrees with the data on the stamp, the District Director will require the taxpayer to file a new Form 11, designated "Amended Return," disclosing the proper name and address, and, on receipt of the amended Form 11, will amend his Record 10 accordingly, attach the amended Form 11 to the original Form 11, make the proper correction on the stamp, and return it to the taxpayer.

§ 194.140 *Errors discovered on inspection.* When an inspector ascertains that an error appears on the special tax stamp as to the name, ownership, address, etc., he will require the taxpayer to prepare a new Form 11, designated "Amended Return," showing the proper name, address, or other correction. Where a special tax stamp is issued in the name of an individual and the business is owned and conducted by a partnership from the beginning of the period of liability covered by the stamp, the names and addresses of all partners will be shown on the amended Form 11. The body of the amended Form 11 must show the reasons for requesting the correction of the special tax stamp. The inspector should also obtain the special tax stamp from the taxpayer, giving him a receipt therefor on Form 1670 (which receipt shall be kept on the dealer's premises) and forward the amended Form 11, the special tax stamp, the duplicate copy of the Form 1670, and the inspection report to the Assistant Regional Commissioner. Upon receipt of the amended Form 11, the special tax stamp, etc., the Assistant Regional Commissioner will examine the amended Form 11 to determine whether correction of the stamp is in order and all necessary data appear on the amended Form 11. If the Assistant Regional Commissioner is satisfied that the papers are in order, he will write or stamp the word "approved" followed by his signature, in any available space on the face of the amended Form 11 and on the inspection report and forward the amended form with the special tax stamp to the proper District Director. Upon receipt of these documents, the District Director will make the proper correction on the special tax stamp, amend his Record 10 accordingly, attach the amended Form 11 to the original Form 11, and return the special tax stamp to the taxpayer.

STAMPS FOR IMPROPER PERIODS

§ 194.141 *General.* Where a dealer has paid special tax and received a stamp for a certain period, whereas he actually incurred liability to special tax for one or more months prior to such period, the procedure outlined in §§ 194.142–194.144 will govern.

§ 194.142 *Liability within current fiscal year* When the period of the liability not covered by the special tax stamp is within the current fiscal year, a remittance should be secured from the taxpayer covering the full period of the liability to June 30 following, plus the delinquency penalty described in § 194.108, computed on the full amount of the tax. When the remittance is received in the District Director's office, an appropriate stamp for the full period of the liability should be issued. The taxpayer should be advised by the inspector of his privilege of filing a claim on Form 843 for redemption of the stamp covering the shorter period.

§ 194.143 *Liability within a past fiscal year* When the period of the liability not covered by the special tax stamp is within a past fiscal year, the additional amount due for such period, including the delinquency penalty described in § 194.108, computed on the basis of the tax for the full period, should be collected and listed for assessment by the District Director on his current excise tax list. When the remittance covering such liability is received by an inspector, a serially-numbered receipt on Form 809 should be issued to the taxpayer in order that he may have evidence of tax-payment for such additional period.

§ 194.144 *Amended return required.* In each instance the taxpayer will file a new return on Form 11, designated "Amended Return," showing the proper period of liability. Appropriate notation should be made by the District Director on Record 10.

RECORD 10

§ 194.145 *Public list of taxpayers.* The District Director shall maintain and keep conspicuously in his office on Record 10, for public inspection, a list of all persons who have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid. The names on this list shall be the true names and not the fictitious ones under which persons may elect to do business.

(53 Stat. 395; 26 U. S. C. 3275)

§ 194.146 *Use of Record 10.* All persons shall be entitled to inspect Record 10 in the District Director's office at reasonable and proper times, and are not prohibited from copying the names and addresses of special-tax payers, but no person shall use the record to the extent of interfering with the District Director's use thereof, or unduly to the exclusion of other persons.

(53 Stat. 395; 26 U. S. C. 3275)

§ 194.147 *Furnishing copy of Record 10.* Upon application of any prosecuting officer of any State, county, or municipality, the District Director shall furnish a certified copy of Record 10, or such portions thereof as may be requested, for which a fee of $1 for each hundred words or fraction thereof in the copy or copies so requested shall be charged.

(53 Stat. 395; 26 U. S. C. 3275)

Subpart I—Change of Location

§ 194.150 *Amended return, Form 11.* A special-tax payer who, during the taxable period for which special tax was paid, removes his business to a place other than that specified in his original return on Form 11, and stated on his special tax stamp, must register the change with the District Director from whom the special tax stamp was purchased, within 30 days after he begins to sell or offer for sale liquors at the new location, by executing a new return on Form 11, designated as "Amended Return," setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp to the District Director for endorsement of the change in location.

(53 Stat. 396; 26 U. S. C. 3280)

§ 194.151 *Removal within same internal revenue district.* When a special-tax payer removes his business to another address within the same internal revenue district, the District Director will enter on his Record 10 the new address and the date of removal, and will note the change on the face of the special tax stamp, stating clearly thereon the new location where said business is to be carried on, and will return the special tax stamp to the taxpayer.

(53 Stat. 396; 26 U. S. C. 3280)

§ 194.152 *Removal to another internal revenue district.* When a taxpayer removes his business to a location within an internal revenue district other than that in which the special tax stamp was issued, the District Director who issued the special tax stamp will enter on his Record 10 the new address and date of removal, stating clearly the new location where said business is to be carried on, and will transmit the stamp to the District Director in charge of the district to which the taxpayer removed. The District Director of that district will make entry on his Record 10, as in the case of a new registrant, and note the taxpayer's new address and the District Director's name, title, and district, and the date on the special tax stamp, which will be returned to the taxpayer.

(53 Stat. 396; 26 U. S. C. 3280)

§ 194.153 *Failure to register change of address within 30 days.* A person who removes his place of business and fails to register such removal with the District Director, within 30 days after he begins to sell or offer for sale liquors at the new location, will be liable to special tax at the new location computed from the 1st day of the calendar month in which he began business at the new location.

(53 Stat. 388 as amended, 396; 26 U. S. C. 3250, 3280)

§ 194.154 *Certificate in lieu of lost or destroyed special tax stamp.* The provisions of this part shall apply to certificates issued to taxpayers in lieu of special tax stamps lost or destroyed in accordance with §§ 194.137 and 194.138.

Subpart J—Change in Proprietorship or Control

§ 194.160 *Sale of business.* A special tax stamp is a receipt for tax, personal to the one to whom issued, and is not transferable from one dealer to another. Where there occurs a change in the proprietorship of a business for which special tax has been paid, a new special tax liability is incurred, except as provided in §§ 194.168–194.169.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.161 *Incorporation of business.* Where an individual or a firm engaged in business requiring payment of special tax forms a corporation to take over and conduct the business, the corporation (a separate legal entity) must pay special tax and procure a stamp in its own name.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.162 *New corporation.* Where a new corporation is formed to take over and conduct the business of one or more corporations which have paid special tax, the new corporation must pay special tax and procure a stamp in its own name.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.163 *Stockholder continuing business of corporation.* A special tax stamp held by a corporation as a liquor dealer cannot cover the same business carried on by one or more of its stockholders after dissolution of the corporation.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.164 *Change in trade name or style of business.* The law requires the payment of but one special tax from the person who carries on the same business at the same place during the same special tax period. A person who pays the requisite special tax upon his business does not incur liability to additional special tax by reason of a mere change in the trade name or style under which such business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.165 *Change of name or increase in capital stock of a corporation.* Additional special tax is not required by reason of a change of name or increase in the capital stock of a corporation if the laws of the State of incorporation provide for such changes without the creation of a new corporation.

§ 194.166 *Change in ownership of capital stock.* No additional special tax is required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

§ 194.167 *Change in membership of unincorporated club.* Additional special tax is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club.

§ 194.168 *Change of control; right of succession.* Certain persons other than the special taxpayer may, without incurring additional special tax liability, carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. To secure such right, the person or persons continuing the business must file with the District Director from whom the special tax stamp was purchased, within 30 days after the date on which the successor begins to carry on the business, a return on Form 11, showing the basis of the succession.

(53 Stat. 396; 26 U. S. C. 3280)

§ 194.169 *Persons having right of succession.* Under the conditions indicated above, the persons having such right of succession are as follows:

Death—The widow or child, or executor, administrator, or other legal representative of the taxpayer.

Husband and wife—A husband or wife succeeding to the business of his or her spouse (living).

Insolvency—A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

Withdrawal from firm—The partner or partners remaining after death or withdrawal of a member.

(53 Stat. 396; 26 U. S. C. 3280)

§ 194.170 *Failure to register right of succession within 30 days.* A person succeeding, as provided in § 194.69, to a business for which special tax has been paid, and who fails to register such succession with the District Director, within 30 days from the date he begins to carry on the business, will become liable to additional special tax computed from the 1st day of the calendar month in which he began to carry on such business.

(53 Stat. 388 as amended, 396; 26 U. S. C. 3250, 3280)

§ 194.171 *Certificate in lieu of lost or destroyed special tax stamp.* The provisions of this part apply to certificates issued to taxpayers in lieu of special tax stamps lost or destroyed in accordance with §§ 194.137 and 194.138.

Subpart K—Exceptions and Exemptions

§ 194.180 *Sales of liquors for immediate consumption on premises.* A retail dealer in liquors will not be required to pay special tax as wholesale dealer in liquors solely by reason of making sales of liquors in quantities of 5 wine gallons or more to the same person at the same time if such sales are made for immediate consumption of the liquors on the premises where sold.

(53 Stat. 391; 26 U. S. C. 3254)

§ 194.181 *Sales of malt liquors for immediate consumption on premises.* A retail dealer in malt liquors will not be required to pay special tax as wholesale dealer in malt liquors solely by reason of making sales of malt liquors in quantities of five gallons or more to the same person at the same time if such sales are made for immediate consumption of the liquors on the premises where sold.

(53 Stat. 393 as amended; 26 U. S. C. 3259)

§ 194.182 *Dealers consummating sales of malt liquors at premises of other dealers.* A retail or wholesale dealer in liquors, or a retail or wholesale dealer in malt liquors, who has paid the requisite special tax imposed upon his business, may, without incurring liability for additional special tax, sell fermented malt liquors, at the premises of other dealers, provided the purchaser's place of business is covered by a special tax stamp issued to him to denote the payment of the special tax imposed upon such dealers. The premises of both the selling dealer and the purchasing dealer must be covered by the requisite special tax stamps.

(53 Stat. 392; 26 U. S. C. 3255)

§ 194.183 *Deliveries of malt liquors from place of storage not covered by special tax stamp.* Deliveries of fermented malt liquors may be made by a retail or wholesale dealer in malt liquors from a place of storage, not covered by his special tax stamp, without incurring liability to special tax at such place, provided orders therefor are not accepted at such place of storage, and sales thereof are consummated at the purchaser's place of business covered by a requisite special tax stamp, or orders therefor are accepted at the place where the vendor holds a requisite special tax stamp.

(53 Stat. 388 as amended, 392, 395; 26 U. S. C. 3250, 3255, 3278)

§ 194.184 *Distillers selling in original stamped packages.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax as wholesale liquor dealer on account of such sales.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.185 *Distillers selling in other than original stamped packages.* The expression "in the original packages to which the tax-paid stamps are affixed" excludes from the exemption provided in § 194.184 sales of distilled spirits in any packages other than those which have the distilled spirits tax-paid stamp affixed thereto. The sale of distilled spirits in bottles or other containers by distillers necessitates the payment of special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.186 *Brewers selling in original stamped packages.* A brewer is not required to pay special tax as dealer in malt liquors by reason of selling in the original stamped barrel or keg, whether at the place of manufacture or elsewhere,

malt liquors manufactured by him, or purchased and procured by him pursuant to Regulations 18 (26 CFR Part 192) from another brewer in his own barrels or kegs.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.187 *Agent of a brewer* Any person holding himself out as an agent of a brewer in selling original stamped packages of malt liquors will become liable to special tax unless it is shown that the malt liquor is the property of the brewer and is sold by him for and on account of the brewer, and not on his own account.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.188 *Brewers selling in other than original stamped packages.* Brewers are required to pay special tax as dealers in malt liquor for the sale of malt liquors packaged in bottles or cans or in containers other than the original stamped barrels or kegs.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.189 *Sales by executor administrator or other fiduciary.* No special tax shall accrue on a sale of distilled spirits, wines, or malt liquors made by a person who is not otherwise a dealer in liquors, where such liquors have been received by him as executor, administrator, or other fiduciary, if such liquors are sold by such person in one parcel only or at public auction in parcels of not less than 20 wine gallons.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.190 *Sales of liquors received as security for or in payment of a debt.* A person, not otherwise a dealer in liquors, who receives a stock of distilled spirits, wines, or malt liquors as security for or in payment of a debt, may sell such liquors in one parcel only or at public auction in parcels of not less than 20 wine gallons, without paying special tax.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.191 *Sales of liquors levied on by public officer under order of any court or magistrate.* No special tax shall accrue on a sale of distilled spirits, wines, or malt liquors by a person who is not otherwise a dealer in liquors, where such liquors have been levied on by any officer under order of any court or magistrate, and are sold in one parcel only, or at public auction in parcels of not less than 20 wine gallons.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.192 *Sales of liquors by retiring partner or by representative of a deceased partner* No special tax as retail or wholesale dealer shall accrue on a sale made by a retiring partner or the representative of a deceased partner to the incoming, remaining, or surviving partner or partners of a firm.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.193 *Sales of entire stock by retail liquor dealer in liquidation.* A retail dealer in liquors may without incurring special tax as a wholesale dealer in liquors, sell out his entire stock of alcoholic liquors in one parcel or in a number of parcels composing his entire stock, which parcels may contain distilled spirits, wines, or malt liquors, or a combination of any or all such liquors.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.194 *Sales of entire stock by retail malt liquor dealer in liquidation.* A retail dealer in malt liquors may sell out his stock of malt liquors in one parcel or in parcels embracing not less than his entire stock of malt liquors without incurring special tax as a wholesale dealer in malt liquors.

(53 Stat. 390; 26 U. S. C. 3251)

§ 194.195 *Sales by qualified winemakers.* A winemaker who has qualified as such under internal revenue laws and regulations, and who sells wines of his own production where the same are made, or at his general business office, is not required to pay special tax as a retail or wholesale dealer in liquors: *Provided,* That a winemaker shall not have more than one place of business that shall be exempt from special tax.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.196 *Sales by apothecaries and druggists.* Apothecaries and druggists who use wines or spirituous liquors for compounding medicines and in making tinctures which are unfit for use for beverage purposes are not liable to special tax as liquor dealers by reason of the sale of such compounds or tinctures.

(53 Stat. 388 as amended; 26 U. S. C. 3250)

§ 194.197 *Sales by proprietors of industrial alcohol plants or warehouses.* A proprietor of an industrial alcohol plant or a bonded warehouse established under the provisions of 26 U. S. C. 3100 and 3101, may sell, or offer for sale, alcohol stored in such plant or warehouse without payment of special tax as a retail or wholesale liquor dealer.

(53 Stat. 357; 26 U. S. C. 3103)

Subpart L—Refund and Redemption of Special Taxes

§ 194.200 *Claims.* Claims for abatement or refund of special taxes and delinquency penalties erroneously or illegally assessed or collected, and claims for the redemption of special tax stamps shall be filed on Form 843, in duplicate, with the District Director. The claim must set forth in detail and state each ground upon which it is made, and facts sufficient to apprise the Assistant Regional Commissioner of the exact basis thereof. If the claim is for redemption of a special tax stamp, such stamp shall be attached to and made a part of the claim.

(53 Stat. 399, 464 as amended; 63 Stat. 667; 26 U. S. C. 3304, 3770, 3809)

§ 194.201 *Time limit on filing of claim.* No claim for the refund of a special tax or penalty or for the redemption of a special tax stamp shall be allowed unless presented within four years next after the payment of such tax or penalty or the purchase of such stamp.

(53 Stat. 399; 26 U. S. C. 3304)

§ 194.202 *Discontinuance of business.* A special-tax payer who for any reason discontinues business is not entitled to any refund for the unexpired portion of the fiscal year for which the special tax stamp was issued.

(53 Stat. 394; 26 U. S. C. 3271)

§ 194.203 *Dealer in malt liquors who sells distilled spirits or wines.* A person who pays a special tax as a dealer in malt liquors and who at the time is liable as a dealer in liquors on account of sales of distilled spirits or wines in addition to malt liquors, and thereafter pays the requisite special tax as a dealer in liquors for the same taxable period, may file a claim for redemption of the special tax stamp issued to him as a dealer in malt liquors.

(53 Stat. 388 as amended, 399; 26 U. S. C. 3250, 3304)

§ 194.204 *Dealer in liquors who actually sells only malt liquors.* A person who pays special tax as a dealer in liquors but who actually sells or offers for sale malt liquors only, and later during the same or a subsequent month pays the special tax as a dealer in malt liquors, may not redeem the special tax stamp issued to him as a dealer in liquors. But in such event, a claim for redemption of the special tax stamp as a dealer in malt liquors may be filed.

(53 Stat. 388 as amended, 391, 399; 26 U. S. C. 3250, 3254, 3304)

Subpart M—Maintenance of Records and Posting of Signs

WHOLESALE LIQUOR DEALER RECORDS

§ 194.210 *General requirements, Record 52.* Except as provided in § 194.214, every wholesale dealer in liquors who sells distilled spirits shall keep Record 52, and render monthly transcripts, Forms 52A and 52B, and Form 338, of the physical receipt and disposition of distilled spirits by him. Daily entries shall be made on Record 52 of all distilled spirits received and disposed of, as indicated by the headings of the columns and lines of the form and the instructions printed thereon or issued in respect thereto, as required by the provisions of this part, before the close of the business day next succeeding the day on which the transactions occur. Where the wholesale dealer defers the making of the entries to the next business day, as authorized herein, he shall keep a separate record such as invoices, of the removals of distilled spirits, showing the removal data required to be entered on Record 52, and appropriate memoranda of other transactions required to be entered on such record, for the purpose of making the entries correctly.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.211 *Warehouse receipts, Form 52F* Except as provided in § 194.214, every wholesale dealer in liquors who sells, or offers for sale, distilled spirits by warehouse receipts, shall keep a separate record, and render a monthly transcript, of all purchases and sales of warehouse receipts, on Form 52F There need not be reported on Form 52F transactions in warehouse receipts not involving the purchase or sale of distilled spirits, such as the receipt from a warehouseman of

warehouse receipts covering the deposit or bottling of the spirits in his warehouse or the surrender of warehouse receipts for the bottling of the spirits in bond or their transfer in bond to another warehouse. Entries on Form 52F shall be made as indicated by the headings of the columns and lines of the form and the instructions printed thereon or issued in respect thereto, and as required by the provisions of this part. The provisions of § 194.210 with respect to the time of making entries, and of § 194.233 with respect to forms to be provided by users, are hereby made applicable to Form 52F. The monthly transcript on Form 52F shall be forwarded to the Assistant Regional Commissioner on or before the tenth day of the succeeding month.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.212 *Dealer selling distilled spirits at retail only.* A dealer who sells wines or malt liquors, or both, in wholesale quantities, and who sells distilled spirits in retail quantities, is not required to keep Record 52 or to file monthly transcripts, Forms 52A and 52B, and report, Form 338.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.213 *Dealers not selling distilled spirits.* Wholesale liquor dealers who sell wines and malt liquors only, and wholesale malt liquor dealers are not required to keep Record 52 or to file monthly transcripts, Forms 52A and 52B, and report, Form 338.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.214 *Proprietors.* The proprietor of an industrial alcohol plant or industrial alcohol bonded warehouse shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 3 (26 CFR Part 182) The proprietor of a registered distillery shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 4 (26 CFR Part 183). The proprietor of a fruit distillery shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 5 (26 CFR Part 184) The proprietor of an internal revenue bonded warehouse shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 10 (26 CFR Part 185) The proprietor of a tax-paid bottling house shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 11 (26 CFR Part 189). The proprietor of a rectifying plant shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 15 (26 CFR Part 190) An importer shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 21 (26 CFR Part 191). Any person bringing distilled spirits into the United States from Puerto Rico or the Virgin Islands shall keep records in his capacity as a wholesale dealer in liquors in accordance with Regulations 24 (26 CFR Part 180).

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.215 *Entries on Record 52.* Where more than one shipment of distilled spirits is received from the same consignor during any month, there will be entered on Record 52 for the first shipment received, the name and address of such consignor, followed by the registry number (preceded by appropriate identifying symbols) and the State of the consignor's plant or warehouse (for example, IRBW-4-Ky.) or, in the case of shipments received from wholesale liquor dealers or importers, the permit number of the consignor (for example, 3-I-1234). For the remaining shipments received from such consignor during the month, there may be entered in the column designated "Name" such registry number or permit number, as the case may be, and the name and address of the consignor may be omitted. Likewise, where more than one shipment of distilled spirits is sent to the same consignee during any month, there will be entered on Record 52 for the first shipment made the name and address of such consignee followed by the registry number or permit number of the consignee. For the remaining shipments made to such consignee during the month, there may be entered in the column designated "Name" such registry number or permit number, as the case may be, and the name and address of the consignee may be omitted. Where the consignor or consignee is a retail dealer in liquors, the name and address must be entered on Record 52 for each shipment received or sent.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.216 *Entry of miscellaneous items.* Wholesale liquor dealers may enter on Record 52 as one item the total quantity of different kinds of spirits made up from broken cases sold to the same person on the same day, provided such total quantity is not in excess of 10 gallons. The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity. The total quantity of such miscellaneous spirits so disposed of during the month shall be reported in the monthly summary, Form 338, as "Miscellaneous". *Provided,* That the wholesale liquor dealer determines by actual inventory the quantity of each kind of spirits remaining on hand at the end of the month.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 194.217 *Separate record of name of distiller, rectifier, or bottler* The name of the person by whom the distilled spirits were distilled, rectified or bottled, need not be entered on Record 52 provided the proprietor keeps at his place of business a separate record of such information, available for inspection by internal revenue officers. The registry number or permit number must be entered in column 5 and the State or country in column 6.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.218 *Separate record of serial numbers of cases.* Serial numbers of cases of distilled spirits received, or disposed of, need not be entered on Record 52, and the serial numbers of packages and cases purchased or sold by warehouse receipts need not be entered on Form 52 F, provided that the wholesale dealer in liquors keeps at his place of business a separate record, showing such serial numbers, with necessary identifying data, including the date of the physical receipt or disposition of distilled spirits and the name and address of the person from whom received or to whom sent, and the date of purchase or sale of warehouse receipts and the name and address of the purchaser or seller, as the case may be, and provided further, that the keeping of such record is approved by the Assistant Regional Commissioner.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.219 *Form of separate records.* The separate records prescribed by §§ 194.217 and 194.218 may be kept in book form (including loose-leaf books), or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such manner that the required information may be readily ascertained therefrom, and, during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by internal revenue officers. If a record in book form is kept, entries shall be made on such separate record before the close of the business day next succeeding the day on which the transactions occur. Where the making of the entries is deferred to the next business day, as authorized herein, appropriate memoranda shall be maintained for the purpose of making the entries correctly. The dealer shall note on Record 52, and on Form 52 F, in the column for reporting serial numbers, "Serial numbers shown on commercial record per authority, dated ——————."

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.220 *Place where Record 52 shall be kept; general.* Except as provided in § 194.221, the wholesale dealer in liquors shall keep Record 52 at the place of business covered by his wholesale liquor dealer special tax stamp, if spirits are received and sent out from such premises.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.221 *Exception.* If the place of business covered by the wholesale liquor dealer special tax stamp is not the same premises where the spirits are received and sent out, the wholesale liquor dealer shall keep his Record 52 at the latter place and render transcripts from such place on Forms 52A and 52B and summary report on Form 338: *Provided,* That, if approved by the Assistant Regional Commissioner, a wholesale liquor dealer may keep his Record 52 at the place of business covered by the special tax stamp and render transcripts on Forms 52A and 52B and summary report on Form 338 from such place. If, how-

ever, the place of business covered by the special tax stamp is not in the same region as the place where the spirits are received and sent out, Record 52 must be kept at the latter place and transcripts on Forms 52A and 52B and summary report on Form 338 rendered to the Assistant Regional Commissioner of that region.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.222 *Place where Form 52F shall be kept.* Every wholesale dealer in liquors shall keep Form 52F at the place of business where warehouse receipts are sold or offered for sale.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.223 *Requirements when wholesale liquor dealer maintains a retail department.* A wholesale liquor dealer who sells distilled spirits at wholesale and at the same premises sells distilled spirits at retail in his capacity as a retail dealer in liquors, and who maintains a separate retail department, shall keep Record 52 at his wholesale department of all distilled spirits there received and disposed of. Distilled spirits transferred from the wholesale department to the retail department shall be reported on Record 52, part 2, as "Transferred to Retail Department." Where it is necessary in the filling of a wholesale order to take liquor out of the retail department, the quantity removed from the retail department must be shown on Record 52, part 1, as "Transferred from Retail Department," and the entire sale shown in Record 52, part 2, as a disposal. The retail department need not be maintained in a separate room or be partitioned off from the wholesale department, but the retail department must in fact be separate from the wholesale department. Where a wholesale liquor dealer sells at both wholesale and retail, and does not maintain a separate retail department, all distilled spirits received and disposed of shall be entered on Record 52.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 194.224 *Records to be kept by States.* The provisions of §§ 194.210–194.223, 194.225 and 194.228–194.233, shall not apply to States and Commonwealths and liquor stores operated by such entities that maintain and make available for inspection by internal revenue officers such records as will enable such officers to trace readily all distilled spirits received and disposed of by them: *Provided,* That such States and Commonwealths, and the liquor stores operated by them, shall, on request of the Assistant Regional Commissioner, furnish such transcripts, summaries, and copies of their records as he shall require.

(53 Stat. 328; 26 U. S. C. 2858)

RETAIL LIQUOR DEALERS

§ 194.225 *Requirements where wholesale department is kept.* A liquor dealer engaged in the business of selling primarily at retail, who at the same premises also makes occasional sales of distilled spirits in quantities of 5 wine gallons or more in his capacity as a wholesale liquor dealer, need not enter in Record 52 all distilled spirits received at the premises as required by § 194.223. As used in this subpart, the term "selling primarily at retail" shall mean that sales at retail must normally represent at least 90 percent of the volume of distilled spirits sold during a month. Where a liquor dealer is engaged in such business, all distilled spirits at the premises may be considered as having been received in the retail department. When a sale of 5 wine gallons or more is made, the distilled spirits involved in the transaction must be shown in Record 52 as received from the retail department and as disposed of. Entries will be made in the various columns of the record pursuant to the provisions of §§ 194.210–194.214 and 194.216. The provisions of §§ 194.215, 194.217–194.219, 194.228, 194.231 and 194.232, relative to separate records, the daily filing of transcripts of Record 52 and certain additional requirements, are not applicable to such liquor dealers. The wholesale department need not be maintained in a separate room or be partitioned off from the retail department, but sales at wholesale must be made in a part of the premises designated as the wholesale department.

(53 Stat. 327 as amended, 391; 26 U. S. C. 2857, 3254)

§ 194.226 *Requirements for dealers in distilled spirits.* Each retail dealer in liquors shall provide, at his own expense, and keep in his place of business a record in book form, or shall keep all invoices or bills for distilled spirits, wines, or malt liquors received, showing the quantity thereof, from whom and the date received. Such records, bills, or invoices shall be kept for two years after the date of the transactions to which they relate and shall be open to inspection during business hours of the dealer by internal revenue officers upon identification and request.

(53 Stat. 391; 26 U. S. C. 3252)

§ 194.227 *Requirements for dealers in malt liquors.* Retail dealers in malt liquors are not required to keep records of malt liquors received.

REPORTS

§ 194.228 *Time of filing.* Except as otherwise provided in this subpart, a wholesale liquor dealer shall file, daily, transcripts of Record 52 on Forms 52A and 52B with the Assistant Regional Commissioner by delivering or mailing them to such officer on the date the transactions entered therein occurred: *Provided,* That in any case in which the Assistant Regional Commissioner shall direct, the transcripts shall be so filed with the Supervisor in Charge instead of with the Assistant Regional Commissioner. The transcripts shall bear the following certification signed by the person or officer authorized to execute Form 338:

I hereby certify that these transcripts, consisting of _____ pages, disclose all the transactions which occurred during the period covered thereby, and that each entry is correct.

If in any case the Assistant Regional Commissioner shall so authorize, the transcripts, in lieu of being filed daily, may be filed with him on or before the 10th day of the month succeeding the month in which the transactions in distilled spirits occurred. In such event, transactions will be entered on Record 52 in accordance with the provisions of § 194.211. Summary report on Form 338 shall be filed with the Assistant Regional Commissioner on or before the 10th day of the month succeeding the month in which the transactions in distilled spirits occurred. Record 52 shall be preserved for a period of 4 years and, during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by any internal revenue officer.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 194.229 *No transactions during month.* If there were no receipts and disposals of distilled spirits by a wholesale liquor dealer during a month, it will not be necessary to prepare Forms 52A and 52B. However, a summary on Form 338 must be prepared and forwarded to the Assistant Regional Commissioner, showing the quantity on hand the first day of the month and the quantity on hand the last day of the month and marked "No transactions during month." Wholesale liquor dealers maintaining records in the simplified manner prescribed by § 194.225 should show in the summary on Form 338 that no distilled spirits were on hand the first day and the last day of the month.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

§ 194.230 *Discontinuance of business.* When a wholesale liquor dealer discontinues business as such, he shall render monthly reports, Forms 52A and 52B and the summary report on Form 338, covering transactions for the month in which business is discontinued, and mark such reports "Final." Record 52 shall be preserved by the dealer for a period of 4 years.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

REPORT OF THIRD PARTY TRANSACTIONS

§ 194.231 *Additional requirements.* The wholesale liquor dealer shall report on Record 52, Part 2, and on transcript, Form 52B, the name and address of each consignee, in the column now designated "Name." In the column now designated "Address," there will be reported the name and address of the person, firm, or corporation paying (by advancement or reimbursement) either tax, bottling charge, brokerage fee, handling charge, or clearance fee, indicating which are included. The heading of both columns will be amended accordingly.

(53 Stat. 327 as amended, 373; 26 U. S. C. 2857, 3171)

§ 194.232 *Shipment or delivery to third party.* Where a wholesale liquor dealer ships or delivers distilled spirits to a consignee on the order of another wholesale liquor dealer detailed records of the transactions shall be kept on Record 52 by (*a*) the wholesale liquor dealer making the shipment or delivery, (*b*) the wholesale liquor dealer giving the order, and (*c*) the consignee if he is a

wholesale liquor dealer. For example, assuming that wholesale dealer (A) ships or delivers the distilled spirits to consignee (C) on the order of wholesale dealer (B) entries will be made in Record 52 by the parties involved as follows:

(a) Wholesale dealer (A) will show in his Record 52 the name and address of wholesale dealer (B) who ordered the distilled spirits, as well as the name and address of consignee (C) the person to whom the distilled spirits are actually shipped or delivered;

(b) Wholesale dealer (B) will show in his Record 52 that the distilled spirits were purchased from wholesale dealer (A) giving both the name and address of (A) and will at the same time make an entry showing that the distilled spirits were shipped or delivered by (A) to consignee (C) giving the name and address of (C) and

(c) Consignee (C), if a wholesale liquor dealer, will show in his Record 52 that the distilled spirits were purchased from wholesale dealer (B) and received by him from wholesale dealer (A) giving name and address of both. Transcripts of Record 52 on Forms 52 A and 52 B, required to be filed with the Assistant Regional Commissioner, will similarly show the details of such transactions.

(53 Stat. 327 as amended, 373; 26 U. S. C. 2857, 3171)

PROCUREMENT OF FORMS

§ 194.233 *Forms to be provided by users at own expense.* Record 52, Forms 52A, 52B, and 338 will be provided by users at their own expense, but must be in the form prescribed by the Commissioner: *Provided,* That, with the approval of the Commissioner, they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further* That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the fly leaf of the book instead of on the individual form.

(53 Stat. 327 as amended; 26 U. S. C. 2857)

POSTING OF SIGNS

§ 194.234 *By wholesalers.* Every person engaged in business as wholesale dealer in liquors shall place and keep conspicuously on the outside of his place of business a sign exhibiting in plain and legible letters, not less than 3 inches in height, painted in oil colors or gilded, and of a proper and proportionate width, the name or firm of the dealer, with the words "Wholesale Liquor Dealer." In the case of a wholesale liquor dealer who procures and posts a special tax stamp designated "Wholesale Dealer in Wines" or "Wholesale Dealer in Wines and Malt Liquors," the requirements of this section will be met by the posting of a sign of the character and dimensions prescribed herein, but with words conforming to the designation of the special tax stamp.

(53 Stat. 318; 26 U. S. C. 2831)

§ 194.235 *By retailers.* Internal revenue laws do not require the posting of signs by retail dealers in liquors, retail malt liquor dealers, and wholesale malt liquor dealers.

Subpart N—Strip Stamps

§ 194.240 *Strip stamps required on all bottles.* All distilled spirits, whether domestic or imported, in the possession of wholesale dealers in liquors or retail dealers in liquors must be in bottles or similar containers of a capacity of 1 gallon or less and must bear either a green or red strip stamp on the neck of the bottle passing over the cork, stopper, or cap.

(53 Stat. 303 as amended, 342 as amended; 26 U. S. C. 2803, 2903)

§ 194.241 *Destruction of strip stamp on opening bottle.* The strip stamp affixed to containers of distilled spirits shall be destroyed upon the opening of the container: *Provided,* That a portion of the strip stamp shall be left attached to the container while any part of the contents remain therein.

(53 Stat. 303 as amended, 345; 26 U. S. C. 2803, 2908)

§ 194.242 *Mutilated or missing red strip stamps.* Unopened bottles containing tax-paid distilled spirits required to be stamped under 26 U. S. C. 2803, from which the (red) strip stamps are missing, or on which the (red) strip stamp is mutilated to the extent that the contents of the bottle are accessible without further destruction of the stamp, or on which the (red) strip stamp is so mutilated that the genuineness thereof cannot be determined, may be restamped pursuant to §§ 194.243–194.246.

(53 Stat. 303 as amended; 26 U. S. C. 2803)

§ 194.243 *Replacement of mutilated or missing red strip stamps found by dealer* The bottle should be set aside by the dealer and proper remittance (1 cent for each red strip stamp of one-half pint or greater, or one quarter cent for each red strip stamp of less than one-half pint) and application under oath for the necessary stamps submitted with Form 428, in triplicate, to the Assistant Regional Commissioner. Copies of Form 428 may be obtained from the Assistant Regional Commissioner. The applicant in every case will state the cause of mutilation or absence of the stamps and submit evidence that the spirits are tax-paid. Such evidence may consist of the invoices covering the purchase of the spirits, in addition to other available documents. The Assistant Regional Commissioner will approve the requisition, Form 428, if he is satisfied from the evidence submitted that the tax has been paid on the spirits, and that the mutilation or absence of the stamps has been explained. He will forward the original Form 428 and one copy with the remittance to the proper District Director. The District Director will enter the serial numbers of the stamps issued and stamp the date of sale on both copies of Form 428. He will send the stamps and the copy of Form 428 to the Assistant Regional Commissioner, who will deliver the stamps to the applicant, either by mail or by a representative of his office, together with instructions in regard to affixing them to the containers.

(53 Stat. 303 as amended; 26 U. S. C. 2803)

§ 194.244 *Mutilated or missing red strip stamps found by internal revenue officer.* When an internal revenue officer discovers an unopened bottle containing distilled spirits, to which no red strip stamp is affixed, or on which the red strip stamp is mutilated to the extent that the contents of the bottle are accessible without further destruction of the stamp, or on which the red strip stamp is so mutilated that the genuineness thereof cannot be determined, the officer will direct that the bottle be set aside. If the officer is satisfied that the spirits in the bottle have been tax-paid, and the original contents of the bottle have not been replaced or increased by the addition of any substance, he shall secure an affidavit from the proper person setting forth the reason for the absence or mutilation of the stamp, accompanied by documentary evidence, if any, in support thereof. The officer shall assist the person in executing an application on Form 428 in order to procure a red strip stamp to be affixed to the bottle, pursuant to the procedure outlined in § 194.243. When the internal revenue officer has good reason to believe that the distilled spirits have not been tax-paid, or that the original contents of the bottle have been replaced or increased by the addition of a substance, he will seize the spirits for forfeiture.

(53 Stat. 303 as amended; 26 U. S. C. 2803)

§ 194.245 *Replacement not required.* It will not be necessary to require the replacement of strip stamps where an immaterial portion of the stamp is missing, or where the strip stamp has dropped off a bottle and may be reaffixed thereto by the dealer.

§ 194.246 *Strip stamp missing; open bottle.* In the case of an opened bottle of distilled spirits from which all portions of the strip stamp have been removed, there will be no necessity to require the restamping of the bottle if the internal revenue officer is satisfied the bottle contains all or a part of its original tax-paid contents only.

Subpart O—Miscellaneous

§ 194.250 *Purchase or sale of used containers.* The purchase or sale of used liquor bottles, and other authorized marked containers bearing the penalty clause, "Federal Law Forbids Sale or Reuse of This Bottle," and other indicia is prohibited.

(53 Stat. 331; 26 U. S. C. 2871)

§ 194.251 *Reuse or refilling containers.* No liquor bottle or other authorized container shall be reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other authorized container, be increased by the addition of any substance.

(53 Stat. 331; 26 U. S. C. 2871)

§ 194.252 *Possession of used containers.* The possession of used liquor bottles or other authorized marked containers by any person other than the person who empties the contents thereof is

prohibited. This shall not prevent the dealer upon whose premises such bottles or containers may lawfully be emptied from assembling the containers in reasonable quantities upon such premises for the purpose of destruction.

(53 Stat. 331; 26 U. S. C. 2871)

§ 194.253 *Tapping of beer barrels and kegs.* Fermented malt liquor tax stamps must be affixed by the brewer to all barrels and kegs of beer before removing them from the brewery. Beer kegs or barrels must be tapped by driving the faucet or tap rod or an air faucet of equal size through the stamp. The stamp thus destroyed must remain on the barrel or keg until it is emptied.

(53 Stat. 371 as amended; 26 U. S. C. 3159)

§ 194.254 *Possession of undestroyed beer stamps.* The possession by any dealer of fermented malt liquor tax stamps which have not been destroyed is evidence of failure on the part of such dealer to destroy such stamps, as required by § 194.253, at the time of tapping of the containers.

(53 Stat. 371 as amended; 26 U. S. C. 3159)

§ 194.255 *Destruction of stamps, marks, and brands on wine containers.* A dealer who empties any receptacle to which wine tax stamps have been affixed shall destroy such stamps by scraping or obliterating immediately on emptying the receptacles to which they are affixed. If the receptacle is a cask, barrel, or keg, the dealer must, in addition to destroying the stamps, scrape or obliterate all marks or brands affixed to such containers immediately upon emptying.

(53 Stat. 398; 26 U. S. C. 3301)

Subpart P—Packaging Alcohol for Industrial Purposes

§ 194.260 *Requirements and procedure.* Wholesale dealers in liquors may package alcohol for industrial purposes in containers in excess of 1 wine gallon and less than 5 wine gallons and shall be governed by those provisions of Regulations 11 (26 CFR Part 189) which pertain to the filing of notice on Form 27 E, the procurement, overprinting as to denomination, attachment, and accounting of strip stamps, and the maintenance of Form 52 D. Form 27 E, properly modified, will be approved by the Assistant Regional Commissioner, and will not be forwarded to the Commissioner. Requisitions on Form 428 for strip stamps will be submitted to and approved by the Assistant Regional Commissioner. The strip stamps will be transmitted directly by the District Director to the wholesale dealer in liquors. The wholesale dealer in liquors shall keep records and render monthly reports on Form 96 showing strip stamps received, used, mutilated, and on hand. Bottling operations will be carried on without supervision of a storekeeper-gauger. Form 52 D, properly modified, will be used for accounting for alcohol received, dumped, and packaged. Preparation of Forms 230 will not be required.

(53 Stat. 303 as amended, 331; 26 U. S. C. 2803, 2871)

§ 194.261 *Labeling.* The wholesale dealer in liquors packaging alcohol for industrial purposes will affix to such package a label bearing the word "Alcohol," and in conspicuous type the words "For Industrial Use," and showing the proof, the capacity of the container, and his name and address. The wholesaler may incorporate in the label other appropriate statements: *Provided,* That such statements shall not obscure or contradict the data required hereby to be shown on such labels.

(53 Stat. 303 as amended, 331; 26 U. S. C. 2803, 2871)

Effect. These regulations shall be effective as of December 1, 1953.

[SEAL] JUSTIN F WINKLE,
Acting Commissioner of Internal Revenue.

Approved: December 22, 1953.

MARION B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-10735; Filed, Dec. 28, 1953; 8:45 a. m.]

Subchapter D—Employment Taxes

[Regulations 120]

PART 406—COLLECTION OF INCOME TAX AT SOURCE ON WAGES; APPLICABLE ON AND AFTER JANUARY 1, 1954

On October 10, 1953, there was published in the FEDERAL REGISTER (18 F R. 6469) a notice of proposed rule making, regarding regulations relating generally to collection of income tax at source on wages under subchapter D of chapter 9 of the Internal Revenue Code with respect to wages paid on or after January 1, 1954. After consideration of all relevant matter presented by interested parties regarding the rules proposed, the regulations so published are hereby adopted, subject to the changes set forth below.

PARAGRAPH 1. Section 406.206, relating to statutory provisions, is revised as follows:

(A) By striking subparagraph (A) of section 1621 (a) (8) and inserting in lieu thereof the following:

(8) (A) For services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or.

(B) By inserting immediately preceding the period and closing bracket of the historical note immediately following the text of section 1621 (a) "· sec. 204 (b), Technical Changes Act 1953"

PAR. 2. Section 406.501, relating to receipts for employees, is revised as follows:

(A) By striking in subparagraph (1) of paragraph (a) the words "original and duplicate" and inserting in lieu thereof "tax return copy and the employee's copy"

(B) By striking all of paragraph (d) which follows the heading "*Undelivered Forms W-2.*" and inserting in lieu thereof the following: "The tax return copy and the employee's copy of each withholding statement on Form W-2 for the calendar year which the employer is required to furnish to the employee and which after reasonable effort he is unable to deliver to the employee shall be transmitted to the district director with the return on Form 941 filed by the employer for the first calendar quarter of the next succeeding calendar year or with the employer's final return if filed at an earlier date. Thus, the undelivered copies of Forms W-2 ordinarily will be transmitted to the district director on or before April 30th or May 10th of the year following that for which they were issued, depending upon when the return for the first calendar quarter of such year is required to be filed. In the case of an employer having branch offices, the undelivered copies of Forms W-2 held in such branch offices may be transmitted by the employer with his return or, at the option of the employer, may be transmitted by the branch office directly to the district director for the internal revenue district in which the branch office is located. Such direct transmittal by branch offices shall be made at the time prescribed for the filing of the employer's return for the first quarter of the calendar year following that for which the Forms W-2 were issued or at the time of the filing of the employer's final return if filed at an earlier date. The provisions of this paragraph are also applicable with respect to any corrected statements issued for a prior calendar year."

(C) By striking in paragraph (e) the words "triplicates of the statements (Form W-2a)" and inserting in lieu thereof "district director's copies of the Forms W-2"

PAR. 3. Section 406.600, relating to statutory provisions, is revised by striking in section 3612 the words "internal revenue agent" wherever they appear therein in brackets and inserting in lieu thereof "collection officer"

PAR. 4. Section 406.601, relating to returns, is revised by striking paragraph (b) and inserting in lieu thereof the following:

(b) *District director's copies of Forms W-2.* (1) The district director's copy of each withholding statement on Form W-2 required to be furnished by the employer with respect to wages paid during the calendar year (as well as such copy of each corrected statement for a prior year) shall be included with the return filed for the fourth quarter of the calendar year or with the employer's final return if filed at an earlier date.

(2) The copies of withholding statements for the current calendar year transmitted with the return shall be accompanied by a list (preferably in the form of an adding machine tape) of the amounts of income tax withheld shown on such forms. If an employer's total payroll is made up on the basis of a number of separate units or establish-

ments, the forms may be assembled accordingly and a separate list or tape submitted for each unit. In such case, a summary list or tape should be submitted, the total of which will agree with the corresponding entry to be made on Form 941. Where the number of forms is large, they may be forwarded in packages of convenient size. When this is done, the packages should be identified with the name of the employer and consecutively numbered. The number of packages should be indicated at the top of Form 941. The tax return, Form 941, and remittance in cases of this kind should be filed in the usual manner, accompanied by a brief statement that the district director's copies of Forms W-2 are in separate packages.

(3) The district director's copies of corrected Forms W-2 for a prior calendar year shall be assembled separately from the forms for the current calendar year and shall be accompanied by a statement explaining the corrections.

PAR. 5. Section 406.801, relating to jeopardy assessments, is revised by striking paragraph (a) and inserting in lieu thereof the following:

(a) Whenever, in the opinion of the district director, the collection of the tax will be jeopardized by delay, he should assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable.

PAR. 6. Section 406.812, relating to additions to tax for delinquent or false returns, is revised by striking in subparagraph (1) (i) (*a*) of paragraph (a) the words "an internal revenue agent" and inserting in lieu thereof "a collection officer"

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: December 22, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

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AUTHORITY: §§ 406.101 to 406.814 issued under sec. 1429, 53 Stat. 178, sec. 3791, 53 Stat. 467; 26 U. S. C. 1429, 3791. Interpret or apply sec. 1627, 57 Stat. 138; 26 U. S. C. 1627.

SUBPART A—INTRODUCTORY PROVISIONS

§ 406.100 *Statutory provisions; citation.*

SEC. 2. CITATION. (Pub. 1 (76th Cong.).) This act [enacting the Internal Revenue Code] and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C."

§ 406.101 *Introduction.* These regulations, which constitute Part 406 of Title 26 of the Code of Federal Regulations, are prescribed under subchapter D, chapter 9, Internal Revenue Code. The applicable provisions of subchapter D, as well as certain applicable provisions of other internal revenue laws of particular importance, will be found in the appropriate places in, and are to be read in connection with, the regulations in this part. References to sections of law are references to the Internal Revenue Code unless otherwise expressly indicated. Inasmuch as these regulations constitute Part 406 of Title 26 of the Code of Federal Regulations, each section of the regulations bears a number commencing with 406 and a decimal point.

§ 406.102 *Scope of regulations.* (a) The regulations in this part relate to the collection of income tax at source on wages paid on or after January 1, 1954, regardless of when such wages were earned.

(b) The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 116, approved December 9, 1944 [26 CFR, Part 405], as amended, relating to the collection of income tax at source on wages under subchapter D, chapter 9, Internal Revenue Code, in force prior to January 1, 1954.

SUBPART B—DEFINITIONS

§ 406.200 *Statutory provisions; definitions; in general.*

SEC. 3797. DEFINITIONS.

(a) When used in this title [Internal Revenue Code] * * *—

(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. A person shall be recognized as a partner for income purposes if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person.

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

(4) *Domestic.* The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

* * * * *

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

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

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

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

* * * * *

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

* * * * *

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

* * * * *

[Sec. 3797 (a), as amended by sec. 511, Revenue Act 1942; sec. 4 (i), Pub. Law 291 (79th Cong.); sec. 340 (a), Revenue Act 1951.]

(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.

* * * * *

§ 406.201 *General definitions and use of terms.* As used in the regulations in this part—

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., Part 1) entitled "An act to consolidate and codify the internal revenue laws of the United States," as amended.

(c) "Regulations 116" means the regulations approved December 9, 1944 (26 CFR, Part 405) as amended, relating to the collection of income tax at source on wages under subchapter D, chapter 9, Internal Revenue Code, in force prior to January 1, 1954.

(d) "Person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(e) "District director" means district director of internal revenue.

(f) "Identification number" means the identifying number of an employer assigned, as the case may be, under the Federal Insurance Contributions Act or Title VIII of the Social Security Act, or by the district director in accordance with § 406.606 (b) (3)

(g) "Calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(h) The term "Armed Forces of the United States" includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force. The term also includes the Coast Guard. The members of such forces include commissioned officers and the personnel below the grade of commissioned officer in such forces.

(i) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

§ 406.202 *Statutory provisions; definitions; employee.*

SEC. 1621. DEFINITIONS.

As used in this subchapter [subchapter D of chapter 9]—

* * * * *

(c) *Employee.* The term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

[Sec. 1621 (c), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.203 *Employee.* (a) The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(b) Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is not an employee.

(c) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees.

(d) Whether the relationship of employer and employee exists will in doubtful cases be determined upon an exam-

mination of the particular facts of each case.

(e) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

(f) The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

(g) No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is not considered to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 1621 (a)

§ 406.204 *Statutory provisions; definitions; employer.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

* * * * *

(d) *Employer.* The term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for the purposes of subsection (a)) means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for the purposes of subsection (a)) means such person.

[Sec. 1621 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.205 *Employer* (a) The term "employer" means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.

(b) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an "employer."

(c) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term "employer" means (except for the purpose of the definition of "wages") the person having such control. For example, where wages, such as certain types of pensions or retired pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the "employer."

(d) The term "employer" also means (except for the purpose of the definition of "wages") any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States)

(e) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax and furnishing the statements required under section 1633. The foregoing two special definitions of the term "employer" are designed solely to meet unusual situations. They are not intended as a departure from the basic purpose.

(f) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

(g) The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.

§ 406.206 *Statutory provisions; definitions; wages.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

(1) For active service as a member of the armed forces of the United States performed prior to January 1, 1955, in a month for which such member is entitled to the benefits of section 22 (b) (13), or

(2) For agricultural labor (as defined in section 1426 (h)), or

(3) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

(4) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter, or

(5) For services by a citizen or resident of the United States for a foreign government or an international organization or for the government of the Commonwealth of the Philippines, or

(6) For services performed by a nonresident alien individual, other than (A) a resident of a contiguous country who enters and leaves the United States at frequent intervals, or (B) a resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof, or

(7) For such services, performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

(8) (A) For services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or

(B) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 per centum of the remuneration to be paid to the employee by such employer during the calendar year will be for such services, or

(C) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico, or

(9) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or

(10) (A) For services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(B) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back, or

(11) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or

(12) To, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6).

[Sec. 1621 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.); sec. 10, Pub. Law 384 (80th Cong.); sec. 209 (c), Social Security Act Amendments 1950; secs. 202 (b), 221 (f) (1), and (2), Revenue Act 1950; secs. 305 (c), 321 (b), Revenue Act 1951; sec. 2, Pub. Law 213 (83d Cong.) sec. 204 (b), Technical Changes Act 1953.]

* * * * *

§ 406.207 *Wages*—(a) *In general.* (1) The term "wages" means all remuneration for services performed by an employee for his employer unless specifically excepted under section 1621 (a) or excepted under section 1622 (g) See §§ 406.206 to 406.232, inclusive.

(2) The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions, and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

(3) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

(4) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, stocks, bonds, or other forms of property. If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages subject to withholding. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

(5) If a person receives as remuneration for services rendered a salary and in addition thereto living quarters or meals, the value to such person of the quarters and meals so furnished shall be added to the remuneration otherwise paid for the purpose of determining the amount of wages subject to withholding. If, however, living quarters or meals are furnished to an employee for the convenience of the employer, the value thereof need not be included as wages subject to withholding.

(6) Ordinarily facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases) furnished or offered by an employer to his employees generally are not considered as wages subject to withholding if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees.

(7) Where wages are paid in property other than cash, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the district director.

(8) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer, are not subject to withholding.

(9) Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by R during the month of January 1954 and is entitled to receive remuneration of $100 for the services performed for R, the employer, during the month. A leaves the employ of R at the close of business on January 31, 1954. On February 15, 1954 (when A is no longer an employee of R), R pays A the remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the statute.

(b) *Pensions and retirement pay.* (1) In general, pensions and retired pay are wages subject to withholding. However, no withholding is required with respect to amounts paid to an employee upon retirement which are taxable as annuities under the provisions of section 22 (b) (2) So-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages. Those payments of pensions or other benefits by the Federal Government under Title 38 of the United States Code which are excluded from gross income are not wages subject to withholding.

(2) Retirement pay for service in the Armed Forces of the United States is subject to withholding unless such pay is excluded from gross income under section 22 (b) (5) Where such retirement pay (not excluded from gross income under section 22 (b) (5)) is paid to a nonresident alien individual, withholding is required only in the case of such amounts paid to a nonresident alien individual who is a resident of Puerto Rico.

(c) *Traveling and other expenses.* Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(d) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(e) *Dismissal payments.* Any payments made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, constitute wages regardless of whether the employer is legally bound by contract, statute, or otherwise to make such payments.

(f) *Deductions by employer from wages of employee.* The amount of any tax which is required by law to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages and is deemed to be paid to the employee as wages at the time the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the Internal Revenue Code, or any Act of Congress, or the law of any State or of Puerto Rico, requires or permits such deductions and the payment of the amounts thereof to the United States, a State, a Territory, Puerto Rico, or the District of Columbia, or any political subdivision of any one or more of the foregoing.

(g) *Payment by an employer of employee's tax, or employee's contributions under a State law.* The term "wages" includes the amount paid by an employer on behalf of an employee (without deduction from the remuneration of, or other reimbursements from, the employee) on account of any payment required from an employee under a State unemployment compensation law, or on account of any tax imposed upon the employee by any taxing authority, including the taxes imposed by sections 1400 and 1500.

(h) *Remuneration for services as employee of nonresident alien individual or foreign entity.* The term "wages" includes remuneration for services performed by a citizen or resident of the United States as an employee of a nonresident alien individual, foreign partnership, or foreign corporation whether or not such alien individual or foreign entity is engaged in trade or business within the United States. Any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States), is subject to all the provisions of law and regulations applicable with respect to an employer. See § 406.205. See § 406.226 (c) for the treatment of wages paid for services performed by a citizen of the United States in Puerto Rico.

§ 406.208 *Exclusions from wages.* (a) Remuneration for services performed by an employee for his employer does not constitute wages for purposes of withholding if it is specifically excepted from wages under any of the numbered paragraphs of section 1621 (a) Remuneration so excepted does not constitute wages for purposes of withholding even though it is for services performed within the United States or for services performed outside the United States by a citizen of the United States for an American employer.

(b) The exception attaches to the remuneration for services performed by an employee and not to the employee as an individual; that is, the exception applies only to the remuneration in an excepted category.

Example. A is an individual who is employed part time by B to perform domestic service in his home (see § 406.218). A is also employed by C part time to perform services as a clerk in a department store owned by him. While no withholding is required with respect to A's remuneration for services performed in the employ of B (the remuneration being excluded from wages), the exception does not embrace the remuneration for services performed by A in the employ of C and withholding is required with respect to the wages for such services.

(c) For provisions relating to the circumstances under which remuneration which is excepted is nevertheless deemed to be wages, and relating to the circumstances under which remuneration which is not excepted is nevertheless deemed not to be wages, see § 406.210.

§ 406.209 *Statutory provisions; income tax collected at source; included and excluded wages.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(g) *Included and excluded wages.* If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than thirty-one consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

[Sec. 1622 (g), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.210 *Included and excluded wages.* (a) If a portion of the remuneration paid by an employer to his employee for services performed during a payroll period constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under section 1621 (a) constitutes wages, and the time during which he performs services, the remuneration for which under such section does not constitute wages, determine whether all the remuneration for services performed during the payroll period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then all the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

(c) If less than one-half of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then none of the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

Example (1). Employee A is employed by B who operates a farm and a store. The remuneration paid A for services on the farm is excepted as remuneration for agricultural labor, and the remuneration for services performed in the store constitutes wages. Employee A is paid on a monthly basis. During a particular month, A works 120 hours on the farm and 80 hours in the store. None of the remuneration paid A for services performed during the month is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the month constitutes wages.

During another month A works 75 hours on the farm and 120 hours in the store. All of the remuneration paid A for services performed during the month is deemed to be wages since the remuneration paid for one-half or more of the services performed during the month constitutes wages.

Example (2). Employee C is employed as a maid by D, a physician, whose home and office are located in the same building. The remuneration paid C for services in the home is excepted as remuneration for domestic service, and the remuneration paid for her services in the office constitutes wages. C is paid on a weekly basis. During a particular week C works 20 hours in the home and 20 hours in the office. All of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for one-half or more of the services performed during the week constitutes wages.

During another week C works 22 hours in the home and 15 hours in the office. None of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the week constitutes wages.

(d) The rules set forth in this section do not apply (1) with respect to any remuneration paid for services performed by an employee for his employer if the periods for which remuneration is paid by the employer vary to the extent that there is no period which constitutes a payroll period within the meaning of section 1621 (b) or (2) with respect to any remuneration paid for services performed by an employee for his employer if the payroll period for which remuneration is paid exceeds 31 consecutive days. In any such case withholding is required with respect to that portion of such remuneration which constitutes wages.

§ 406.211 *Statutory provisions; definitions; wages; public official.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, * * *

[Sec. 1621 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.); sec. 10, Pub. Law 384 (80th Cong.); sec. 209 (c), Social Security Act Amendments 1950; secs. 202 (b), 221 (f) (1), and (2), Revenue Act 1950; secs. 305 (c), 321 (b), Revenue Act 1951.]

* * * * *

§ 406.212 *Fees paid a public official.* (a) Authorized fees paid to public officials such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from the definition of the term "wages" and hence are not subject to withholding. However, salaries paid such officials by the Government, or Government agency or instrumentality, are subject to withholding.

(b) Amounts paid to precinct workers for services performed at election booths in State, county, and municipal elections and fees paid to jurors and witnesses are in the nature of fees paid to public officials and therefore are not subject to withholding.

§ 406.213 *Statutory provisions; definitions; wages; members of the Armed Forces.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

(1) For active service as a member of the armed forces of the United States performed prior to January 1, 1955, in a month for which such member is entitled to the benefits of section 22 (b) (13), or

[Sec. 1621 (a) (1), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 10, Pub. Law 384 (80th Cong.); sec. 202 (b), Revenue Act 1950; sec. 305 (c), Revenue Act 1951; sec. 2, Pub. Law 213 (83d Cong.).]

* * * * *

§ 406.214 *Remuneration of members of the Armed Forces of the United States for active service in combat zone or while hospitalized as a result of such service.* Remuneration paid for active service as a member of the Armed Forces of the United States performed prior to January 1, 1955, in a month during any part of which such member served in a combat zone (as determined under section 22 (b) (13)) or is hospitalized at any place as a result of wounds, disease, or injury incurred while serving in such a combat zone, is excepted from the definition of the term "wages" and is, therefore, not subject to withholding. The exception with respect to hospitalization is applicable, however, only if during all of such month there are combatant activities in some combat zone (as determined under section 22 (b) (13)).

§ 406.215 *Statutory provisions; definitions; wages; agricultural labor.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(2) For agricultural labor (as defined in section 1426 (h)), or

[Sec. 1621 (a) (2), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 1426. DEFINITIONS.

When used in this subchapter [subchapter A of chapter 9]—

* * * * *

(h) *Agricultural Labor.* The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

[Sec. 1426 (h), as added by sec. 606, Social Security Act Amendments 1939, and as amended by sec. 204 (d), Social Security Act Amendments 1950.]

* * * * *

SEC. 15. MISCELLANEOUS PROVISIONS (AGRICULTURAL MARKETING ACT).

* * * * *

(g) As used in this act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923.

[Sec. 15 (g), Pub. Law 10 (71st Cong.), as added by sec. 3, Pub. Law 867 (71st Cong.).]

SEC. 2. (THE NAVAL STORES ACT).

That, when used in this act—

* * * * *

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

* * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

[Sec. 2 (c), (h), Pub. Law 478 (67th Cong.).]

* * * * *

§ 406.216 *Remuneration for agricultural labor*—(a) *In general.* (1) The term "wages" does not include remuneration for services which constitute agricultural labor as defined in section 1426 (h) The term "agricultural labor" as so defined includes services of a character described in paragraphs (b) (c) (d) (e) and (f) of this section. In general, however, the term agricultural labor does not include services performed in connection with forestry, lumbering, or landscaping.

(2) The term "farm" as used in the regulations in this part includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets) do not constitute "farms."

(b) *Services described in section 1426 (h) (1)* (1) Remuneration paid for services performed on a farm by an employee of any person in connection with any of the following activities is excepted as remuneration for agricultural labor:

(i) The cultivation of the soil;

(ii) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(iii) The raising or harvesting of any other agricultural or horticultural commodity.

(2) Remuneration paid for services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry is excepted only if such services are performed on a farm. Thus, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, do not constitute agricultural labor. Services performed in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar do not constitute agricultural labor, even though such services are performed on a farm.

(c) *Services described in section 1426 (h) (2)* (1) The remuneration paid for the following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms is excepted as remuneration for agricultural labor, provided the major part of such services is performed on a farm:

(i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(ii) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

(2) The services described in subparagraph (1) (i) of this paragraph may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

(3) Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to remuneration paid for services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) *Services described in section 1426 (h) (3)* Remuneration paid for services performed by an employee in the employ of any person in connection with any of the following operations is excepted as remuneration for agricultural labor without regard to the place where such services are performed:

(1) The ginning of cotton;

(2) The operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying or storing water for farming purposes; or

(3) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(e) *Services described in section 1426 (h) (4)* (1) Remuneration paid for services performed by an employee in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity is excepted as remuneration for agricultural labor if.

(i) Such services are performed by the employee in the employ of an operator of a farm or in the employ of a group of operators of farms (other than a cooperative organization),

(ii) Such services are performed with respect to the commodity in its unmanufactured state; and

(iii) (*a*) Such operator produced more than one-half of the commodity with respect to which such services are performed during the pay period, or (*b*) such group of operators produced all of the commodity with respect to which such services are performed during the pay period.

(2) The term "operator of a farm" as used in this paragraph means an owner, tenant, or other person, in possession of a farm and engaged in the operation of such farm.

(3) The services described in this paragraph do not constitute agricultural labor if performed in the employ of a cooperative organization. The term "organization" includes corporations, joint-stock companies, and associations which are treated as corporations under the Internal Revenue Code. For the purposes of this paragraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such

group is more than 20 at any time during the calendar quarter in which the services involved are performed.

(4) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. On the other hand, services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constitute agricultural labor.

(5) The term "commodity" refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in subparagraph (1) (iii) of this paragraph has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this paragraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(6) The services described in this paragraph do not include services performed in connection with commercial canning or commercial freezing, or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this paragraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of paragraph (c) of this section.

(f) *Services described in section 1426 (h) (5)* Remuneration paid for services not in the course of the employer's trade or business (see § 406.220) or for domestic service in a private home of the employer (see § 406.218) is excepted as remuneration for agricultural labor if such services are performed on a farm operated for profit. Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

§ 406.217 *Statutory provisions; definitions; wages; domestic service.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(3) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

[Sec. 1621 (a) (3), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.218 *Remuneration for domestic service.* (a) Remuneration paid for services of a household nature performed by an employee in or about the private home of the person by whom he is employed, or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed, is excepted from the term "wages."

(b) A private home is the fixed place of abode of an individual or family.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

(d) If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the remuneration paid for services performed therein is not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purpose, the remuneration paid for services performed therein is not within the exception.

(e) In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(f) The remuneration paid for services of a household nature is not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs) hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.

(g) Remuneration paid for services performed as a private secretary, even though performed in the employer's home, is not within the exception.

§ 406.219 *Statutory provisions; definitions; wages; service not in the course of employer's trade or business.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(4) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter, or

* * * * *

(11) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or

[Sec. 1621 (a) (4), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 209 (c), Social Security Act Amendments 1950; and sec. 1621 (a) (11), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.220 *Remuneration for service not in the course of employer's trade or business.* (a) The term "wages" does not include remuneration paid in any medium other than cash for service not in the course of the employer's trade or business. Cash remuneration paid for service not in the course of the employer's trade or business performed by an employee for an employer in a calendar quarter is excepted from the term "wages" unless—

(1) The cash remuneration paid for such service performed by the employee for the employer in the calendar quarter is $50 or more; and

(2) Such employee is regularly employed in the calendar quarter by such employer to perform such service.

Unless the tests set forth in both subparagraphs (1) and (2) of this paragraph are met, cash remuneration for service not in the course of the employer's trade or business is excluded from wages.

(b) The term "service not in the course of the employer's trade or business" includes service that does not promote or advance the trade or business of the employer. Remuneration paid for service performed for a corporation does not come within the exception.

(c) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also re-

quired that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for service not in the course of the employer's trade or business, only cash remuneration for such service shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(d) For the purposes of this exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(1) Such individual performs service not in the course of the employer's trade or business for such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(2) Such individual was regularly employed (as determined under subparagraph (1)) by such employer in the performance of service not in the course of the employer's trade or business during the preceding calendar quarter.

(e) In determining whether an employee has performed service not in the course of the employer's trade or business on at least 24 days during a calendar quarter, there shall be counted as one day—

(1) Any day or portion thereof on which the employee actually performs such service; and

(2) Any day or portion thereof on which the employee does not perform service of the prescribed character but with respect to which cash remuneration is paid or payable to the employee for such service, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform service not in the course of the employer's trade or business shall be considered to be engaged in the actual performance of such service on that day. For the purposes of this exception, a day is a period of 24 hours commencing at midnight and ending at midnight.

(f) For provisions relating to service not in the course of the employer's trade or business and domestic service performed on a farm operated for profit, see § 406.216 (f) For provisions relating to domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, see § 406.218.

§ 406.221 *Statutory provisions; definitions; wages; foreign government or international organization.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(5) For services by a citizen or resident of the United States for a foreign government or an international organization or for the government of the Commonwealth of the Philippines, or

[Sec. 1621 (a) (5), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.).]

* * * * *

SEC. 3797. DEFINITIONS.

(a) When used in this title * * *

* * * * *

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

[Sec. 3797 (a) (18), as added by sec. 4 (i), Pub. Law 291 (79th Cong.).]

* * * * *

SEC. 1. (INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT).

For the purposes of this title [International Organizations Immunities Act], the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

[Sec. 1, Pub. Law 291 (79th Cong.).]

§ 406.222 *Remuneration for services for foreign government or international organization*—(a) *Services for foreign government.* (1) Remuneration paid for services performed as an employee of a foreign government, or the government of the Commonwealth of the Philippines, is excepted. The exception includes not only remuneration paid for services performed by ambassadors, ministers, and other diplomatic officers and employees but also remuneration paid for services performed as a consular or other officer or employee of a foreign government, or the government of the Commonwealth of the Philippines, or as a nondiplomatic representative of such a government. However, the exception does not include remuneration for services performed for a corporation created or organized in the United States or under the laws of the United States or of any State (including the District of Columbia or the Territory of Alaska or Hawaii) or of Puerto Rico even though such corporation is wholly owned by such a government.

(2) The citizenship or residence of the employee and the place where the services are performed are immaterial for purposes of the exception.

(b) *Services for international organization.* Subject to the provisions of section 1 of the International Organizations Immunities Act, remuneration paid for services performed within or without the United States by an employee for an international organization as defined in section 3797 (a) (18) is excepted from the term "wages." The term "employee" as used in the preceding sentence includes not only an employee who is a citizen or resident of the United States but also an employee who is a nonresident alien individual. The term "employee" also includes an officer. An organization designated by the President through appropriate Executive order as entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act may enjoy the benefits of the exclusion from wages with respect to remuneration paid for services performed for such organization prior to the date of the issuance of such Executive order, if (1) the Executive order does not provide otherwise and (2) the organization is a public international organization in which the United States participates, pursuant to a treaty or under the authority of an Act of Congress authorizing such participation or making an appropriation for such participation, at the time such services are performed.

§ 406.223 *Statutory provisions; definitions; wages; nonresident aliens.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(6) For services performed by a nonresident alien individual, other than (A) a resident of a contiguous country who enters and leaves the United States at frequent intervals, or (B) a resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof, or

(7) For such services performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

[Sec. 1621 (a) (6), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 221 (f) (1), Revenue Act 1950; and sec. 1621 (a) (7), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.224 *Remuneration for services of nonresident alien individuals.* (a) Except in the case of certain nonresident alien individuals who are residents of Canada, Mexico, and Puerto Rico, remuneration for services performed by nonresident alien individuals does not constitute wages subject to withholding under section 1622. For withholding of income tax on wages paid for services performed within the United States in the case of nonresident alien individuals generally, see section 143 and regulations thereunder.

(b) Withholding is required in the case of wages paid to nonresident aliens who are residents of a contiguous coun-

try (Canada or Mexico) and who enter and leave the United States at frequent intervals, except such aliens who, in the performance of their duties in transportation service between points in the United States and points in a contiguous country, enter and leave the United States at frequent intervals. This exception applies to personnel engaged in railroad, ferry, steamboat, and aircraft services and applies alike whether the employer is a domestic or foreign entity. Thus, the wages of a nonresident alien individual who is a resident of Canada and an employee of a domestic railroad, for services as a member of the crew of a train operating between points in Canada and points in the United States, shall not be subject to withholding under section 1622. The exemption, however, has no application to a resident of Canada who, for example, is employed at a fixed point in the United States, such as a factory, store, or office, and who commutes from his home in Canada in the pursuit of his employment within the United States; nor does it apply to an alien employee of a railroad corporation who is on duty within the United States, even though he enters and leaves the United States in reaching his place of employment from his home in a contiguous country.

(c) In order for the exemption to apply, the nonresident alien employee must file with his employer a certificate containing the following: The employee's name and address, and a statement that he is not a citizen of the United States, and that he is a resident of the named contiguous country and the approximate period of time during which he has occupied such status. Such certificate shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. Although the form is not prescribed, the certificate must contain all the information required by this section.

(d) Withholding is not required in the case of wages paid to a nonresident alien individual for services performed in Puerto Rico for an employer (other than the United States or any agency thereof) even though such alien individual is a resident of Puerto Rico at the time when such services are performed. Wages paid for services performed by a nonresident alien individual who is a resident of Puerto Rico are subject to withholding if such services are performed as an employee of the United States or any agency thereof. The place of performance of such services is immaterial, provided such alien individual is a resident of Puerto Rico at the time of performance. Wages representing retired pay for service in the Armed Forces of the United States are subject to withholding under the limitations specified in § 406.207 (b) (2) in the case of an alien resident of Puerto Rico.

§ 406.225 *Statutory provisions: definitions; wages; citizens outside the United States.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(8) (A) For services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or

(B) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 per centum of the remuneration to be paid to the employee by such employer during the calendar year will be for such services, or

(C) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico, or

[Sec. 1621 (a) (8), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 10, Pub. Law 384 (80th Cong.); sec. 221 (f) (2), Revenue Act 1950; sec. 321 (b), Revenue Act 1951; sec. 204 (b), Technical Changes Act 1953.]

* * * * *

SEC. 116. EXCLUSIONS FROM GROSS INCOME.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this chapter [Chapter 1]:

(a) *Earned income from sources without the United States*—(1) *Bona fide resident of foreign country.* In the case of an individual citizen of the United States, who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts constitute earned income (as defined in paragraph (3)) attributable to such period; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this paragraph.

(2) *Presence in foreign country for 17 months.* In the case of an individual citizen of the United States, who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts constitute earned income (as defined in paragraph (3)) attributable to such period; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this paragraph. If the 18-month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year.

[Sec. 116 (a) (1), (2), as amended by sec. 148 (a), Revenue Act 1942; sec. 107, Revenue Act 1943; sec. 321 (a), Revenue Act 1951; sec. 204 (a), Technical Changes Act 1953.]

* * * * *

§ 406.226 *Remuneration for services of citizens outside the United States*—(a) *Citizens in foreign countries*—(1) *Elimination of double withholding.* (i) The remuneration paid for services performed in a foreign country for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of the payment of such remuneration the employer is required by the law of any foreign country to withhold income tax upon such remuneration.

(ii) The remuneration is not exempt from withholding under this subparagraph if the employer is not required by the law of a foreign country to withhold income tax upon such remuneration. Mere agreements between the employer and the employee whereby the estimated income tax of a foreign country is withheld from the remuneration in anticipation of actual liability under the law of such country will not suffice.

(iii) The exemption from withholding provided by this subparagraph does not apply by reason of withholding of income tax pursuant to the law of a possession or territory of the United States or of a political subdivision of a foreign state.

(2) *Resident of a foreign country.* (i) The remuneration paid for services performed outside the United States for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of payment it is reasonable to believe that such remuneration will be excluded from gross income under the provisions of section 116 (a) (1).

(ii) Section 116 (a) (1) provides that, in the case of an individual citizen of the United States who establishes to the satisfaction of the Commissioner that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, all amounts received from sources without the United States (except amounts paid by the United States or any agency or instrumentality thereof) shall be excluded from gross income if such amounts constitute earned income, as defined in section 116 (a) (3), which is attributable to such uninterrupted period. See section 116 (a) and the regulations thereunder.

(iii) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that remuneration for services performed outside the United States during the taxable year, or applicable portion thereof, will be excluded from gross income under the provisions of section 116 (a) (1) for each taxable year in respect of which the employee properly executes and files in duplicate with the employer a statement in the following form:

STATEMENT FOR CLAIMING BENEFIT OF SECTION 116 (a) (1)

For calendar year _____
or fiscal year
beginning _____ and ending _____

(A) My name is _____. My present address is _____. I am employed by _____.

(B) My last address in the United States was _____. The internal revenue district in which I filed my last income tax return is _____.

(C) I _____ file my income
(Do or do not)
tax return on the calendar-year basis.

(D) I file my income tax return on the basis of the fiscal year beginning _____ ____, 19____, and ending _____ ____, 19____.

(E) I am a citizen of the United States.

(F) I have been a bona fide resident of the following foreign country or countries, namely, _____, for an uninterrupted period which began on _____ ____, 19____.

(G) I expect to remain a bona fide resident of a foreign country or countries from the date of this statement until the end of the taxable year in respect of which this statement is filed.

(H) On the basis of the facts in my case I have good reason to believe that, with respect to the above period of foreign residence falling within the taxable year, I will satisfy the bona fide foreign-residence requirement prescribed by section 116 (a) (1) of the Internal Revenue Code.

(I) I understand that any exemption from withholding of tax permitted by reason of the filing of this statement is not a determination by the Commissioner of Internal Revenue that any remuneration paid to me for any services performed during the taxable year is excludable from gross income under the provisions of section 116 (a) (1) of the Internal Revenue Code.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

_____
(Signature of taxpayer)
Date: _____, 19____.

(iv) If with respect to any employee the employer was entitled to presume for the two consecutive taxable years immediately preceding the employee's current taxable year that the employee's remuneration for services performed outside the United States during such preceding taxable years would be excluded from gross income under the provisions of section 116 (a) (1), he may, if such employee is residing in a foreign country on the first day of such current taxable year, presume that, in the absence of cause for a reasonable belief to the contrary, the remuneration for services performed outside the United States during such current taxable year will be excluded from gross income under the provisions of section 116 (a) (1)

(3) *Physical presence in a foreign country.* (i) The remuneration paid for services performed outside the United States for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of payment it is reasonable to believe that such remuneration will be excluded from gross income under the provisions of section 116 (a) (2)

(ii) Section 116 (a) (2) provides that, in the case of an individual citizen of the United States who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency or instrumentality thereof) shall be excluded from gross income if such amounts constitute earned income, as defined in section 116 (a) (3) which is attributable to such period. However, the total amount so excluded from gross income under the provisions of such section shall not exceed $20,000 for each taxable year if the 18-month period includes the entire taxable year. If the 18-month period does not include the entire taxable year, the amount excluded from gross income under such section for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year. See section 116 (a) and the regulations thereunder.

(iii) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that remuneration for services performed outside the United States during the taxable year, or applicable portion thereof, will be excluded from gross income under the provisions of section 116 (a) (2) for each taxable year in respect of which the employee properly executes and files in duplicate with the employer a statement in the form set forth below. The presumption shall not apply after the total payments made during the taxable year of the employee equal $20,000 or such lesser amount as may be allowable under section 116 (a) (2) on the basis of the facts shown in such statement.

STATEMENT FOR CLAIMING BENEFIT OF SECTION 116 (a) (2)

For calendar year _____
or fiscal year
beginning _____ and ending _____

(A) My name is _____. My present address is _____. I am employed by _____.

(B) My last address in the United States was _____. The internal revenue district in which I filed my last income tax return is _____.

(C) I _____ file my income
(Do or do not)
tax return on the calendar-year basis.

(D) I file my income tax return on the basis of the fiscal year beginning _____ ____, 19____, and ending _____ ____, 19__.

(E) I am a citizen of the United States.

(F) Except for occasional absences which have not disqualified me for the benefit of section 116 (a) (2) of the Internal Revenue Code, I have been present in the following foreign country or countries, namely _____, during the period of time which began on _____ ____, 19____.

(G) I expect to be present in a foreign country or countries, except for occasional absences not disqualifying me for the benefit of section 116 (a) (2), from the date of this statement until the end of the taxable year in respect of which this statement is filed, or, if not for such period, from the date of this statement until the following date within such taxable year, namely, _____ ____, 19____.

(H) On the basis of the facts in my case I have good reason to believe that, with respect to the above period of presence in a foreign country or countries falling within the taxable year, I will satisfy the 510 full-day requirement prescribed by section 116 (a) (2) of the Internal Revenue Code.

(I) In the event I become disqualified for the exclusion provided by section 116 (a) (2) in respect of all or part of the above period of presence in a foreign country or countries falling within the taxable year, I will immediately notify my employer, giving sufficient facts to indicate the part, if any, of such period falling within such year in respect of which I am qualified for such exclusion.

(J) I understand that any exemption from withholding of tax permitted by reason of the filing of this statement is not a determination by the Commissioner of Internal Revenue that any remuneration paid to me for any services performed during the taxable year is excludable from gross income under the provisions of section 116 (a) (2) of the Internal Revenue Code.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

_____
(Signature of taxpayer)
Date: _____ ____, 19____.

(4) *General.* The original of each statement filed with the employer pursuant to subparagraphs (2) and (3) of this paragraph (a) shall be transmitted to the district director with the employer's return on Form 941 required by § 406.601 for the quarter of the calendar year within which such statement is filed. The duplicate copy shall be retained by the employer.

(b) *Citizens in possessions of the United States other than Puerto Rico.* (1) Remuneration paid for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States, other than Puerto Rico, is not subject to withholding, if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services.

(2) Withholding is required in the case of remuneration paid to a citizen of the United States for services performed as an employee of the United States or any agency thereof in any possession of the United States, including Puerto Rico.

(c) *Citizens in Puerto Rico.* (1) Remuneration paid for services performed within Puerto Rico for an employer (other than the United States or any agency thereof) by a citizen of the United States is not subject to withholding, if it is reasonable to believe that during the entire calendar year the em-

ployee will be a bona fide resident of Puerto Rico.

(2) In addition, the employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee will be a bona fide resident of Puerto Rico during the entire calendar year—

(i) In every case except where the employee is known by the employer to have maintained his abode at a place outside Puerto Rico at some time during the current or the preceding calendar year; or

(ii) In every case where the employee files with the employer a statement (containing a declaration under the penalties of perjury that such statement is true to the best of the employee's knowledge and belief) that such employee has at all times during the current calendar year been a bona fide resident of Puerto Rico and that he intends to remain a bona fide resident of Puerto Rico during the entire remaining portion of such current calendar year.

(d) *Reasonable belief.* The reasonable belief referred to in subparagraph (A) (B) or (C) of section 1621 (a) (8) may be based upon any evidence reasonably sufficient to induce such belief, even though such evidence may be insufficient upon closer examination by the Commissioner or the courts finally to establish that the remuneration is excludable from gross income under the provisions of section 116 (a) section 116 (l), or section 251.

§ 406.227 *Statutory provisions; definitions; wages; minister of a church.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(9) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or

[Sec. 1621 (a) (9), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.228 *Remuneration for services performed by a minister of a church or by a member of a religious order* Remuneration paid for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, is not subject to withholding under section 1622. The duties of ministers include the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination.

§ 406.229 *Statutory provisions; definitions; wages; delivery or distribution of newspapers.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(10) (A) For services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(B) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back, or

[Sec. 1621 (a) (10), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.230 *Remuneration for delivery and distribution of newspapers, shopping news, and magazines*—(a) *In general.* Subparagraph (A) of section 1621 (a) (10) excepts from wages the remuneration for certain services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news. This exception is dealt with in paragraph (b) of this section. Subparagraph (B) of section 1621 (a) (10) excepts from wages the remuneration for certain services in the sale of newspapers or magazines without regard to the age of the individual performing the services. Such exception is dealt with in paragraph (c) of this section.

(b) *Services of individuals under age 18.* Remuneration for services performed by an employee under the age of 18 in the delivery or distribution of newspapers, or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, is excepted from wages. Thus, remuneration for services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, is excepted from wages. The remuneration is excepted irrespective of the form or method thereof. The remuneration for incidental services by the employee who makes the house-to-house delivery, such as services in assembling newspapers, are considered to be within the exception. The exception continues only during the time that the employee is under the age of 18.

(c) *Services of individuals of any age.* Remuneration for services performed by an employee in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his remuneration being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, is excepted from wages. The remuneration is excepted whether or not the employee is guaranteed a minimum amount of remuneration, or is entitled to be credited with the unsold newspapers or magazines turned back. Moreover, the remuneration is excepted without regard to the age of the employee. Remuneration for services performed other than at the time of sale to the ultimate consumer is not within the exception. Thus, remuneration for services of a regional distributor which are antecedent to but not immediately part of the sale to the ultimate consumer are not within the exception. However, remuneration for incidental services by the employee who makes the sale to the ultimate consumer, such as services in assembling newspapers or in taking newspapers or magazines to the place of sale, is considered to be within the exception.

§ 406.231 *Statutory provisions; definitions; wages; certain tax-exempt trusts and annuity plans.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(12) To, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6).

[Sec. 1621 (a) (12), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.232 *Payments from or to certain tax-exempt trusts or under or to certain annuity plans.* Any payment from or to a trust or annuity plan is excepted from wages if:

(a) The payment is made by an employer, on behalf of an employee or his beneficiary, into a trust or annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) or the annuity plan meets the requirements of section 165 (a) (3), (4) (5), and (6) or

(b) The payment is made to, or on behalf of, an employee or his beneficiary from a trust or under an annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) or the annuity plan meets the requirements of section 165 (a) (3), (4) (5), and (6).

A payment made to an employee of a trust exempt from tax under section 165 (a) for services rendered as an employee of such trust and not as a beneficiary of the trust is not within this exception.

SUBPART C—DETERMINATION OF TAX

§ 406.300 *Statutory provisions; determination of tax.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

(a) *Requirement of withholding.* Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to 18 per centum of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b) (1) * * *

[Sec. 1622 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a), Revenue Act 1945; sec. 501, Revenue Act 1948; sec. 141, Revenue Act 1950; sec. 201, Revenue Act 1951.]

(b) (1) The table referred to in subsection (a) is as follows:

PERCENTAGE METHOD WITHHOLDING TABLE

Payroll period	*Amount of one withholding exemption*
Weekly	$13.00
Biweekly	26.00
Semimonthly	28.00
Monthly	56.00
Quarterly	167.00
Semiannual	333.00
Annual	667.00
Daily or miscellaneous (per day of such period)	1.80

(2) If wages are paid with respect to a period which is not a payroll period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commissioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer, in computing the tax required to be deducted and withheld, to use the excess of the aggregate of the wages paid to the employee during the calendar week over the withholding exemption allowed by this subsection for a weekly payroll period.

(5) In determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

[Sec. 1622 (b), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a), Revenue Act 1945; sec. 501, Revenue Act 1948.]

(c) *Wage bracket withholding*—(1) (A) * * *

(B) *Wages paid after December 31, 1953.* At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee after December 31, 1953, a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a)

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS WEEKLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$13	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$13	$14	$2.40	.10	0	0	0	0	0	0	0	0	0
$14	$15	2.60	.30	0	0	0	0	0	0	0	0	0
$15	$16	2.80	.50	0	0	0	0	0	0	0	0	0
$16	$17	3.00	.70	0	0	0	0	0	0	0	0	0
$17	$18	3.20	.80	0	0	0	0	0	0	0	0	0
$18	$19	3.30	1.00	0	0	0	0	0	0	0	0	0
$19	$20	3.50	1.20	0	0	0	0	0	0	0	0	0
$20	$21	3.70	1.40	0	0	0	0	0	0	0	0	0
$21	$22	3.90	1.60	0	0	0	0	0	0	0	0	0
$22	$23	4.10	1.70	0	0	0	0	0	0	0	0	0
$23	$24	4.20	1.90	0	0	0	0	0	0	0	0	0
$24	$25	4.40	2.10	0	0	0	0	0	0	0	0	0
$25	$26	4.60	2.30	0	0	0	0	0	0	0	0	0
$26	$27	4.80	2.50	.20	0	0	0	0	0	0	0	0
$27	$28	5.00	2.60	.30	0	0	0	0	0	0	0	0
$28	$29	5.10	2.80	.50	0	0	0	0	0	0	0	0
$29	$30	5.30	3.00	.70	0	0	0	0	0	0	0	0
$30	$31	5.50	3.20	.90	0	0	0	0	0	0	0	0
$31	$32	5.70	3.40	1.10	0	0	0	0	0	0	0	0
$32	$33	5.90	3.50	1.20	0	0	0	0	10	0	0	0
$33	$34	6.00	3.70	1.40	0	0	0	0	0	0	0	0
$34	$35	6.20	3.90	1.60	0	0	0	0	0	0	0	0
$35	$36	6.40	4.10	1.80	0	0	0	0	0	0	0	0
$36	$37	6.60	4.30	2.00	0	0	0	0	0	0	0	0
$37	$38	6.80	4.40	2.10	0	0	0	0	0	0	0	0
$38	$39	6.90	4.60	2.30	0	0	0	0	0	0	0	0
$39	$40	7.10	4.80	2.50	.20	0	0	0	0	0	0	0
$40	$41	7.30	5.00	2.70	.40	0	0	0	0	0	0	0
$41	$42	7.50	5.20	2.90	.50	0	0	0	0	0	0	0
$42	$43	7.70	5.30	3.00	.70	0	0	0	0	0	0	0
$43	$44	7.80	5.50	3.20	.90	0	0	0	0	0	0	0
$44	$45	8.00	5.70	3.40	1.10	0	0	0	0	0	0	0
$45	$46	8.20	5.90	3.60	1.30	0	0	0	0	0	0	0
$46	$47	8.40	6.10	3.80	1.40	0	0	0	0	0	0	0
$47	$48	8.60	6.20	3.90	1.60	0	0	0	0	0	0	0
$48	$49	8.70	6.40	4.10	1.80	0	0	0	0	0	0	0
$49	$50	8.90	6.60	4.30	2.00	0	0	0	0	0	0	0
$50	$51	9.10	6.80	4.50	2.20	0	0	0	0	0	0	0
$51	$52	9.30	7.00	4.70	2.30	0	0	0	0	0	0	0
$52	$53	9.50	7.10	4.80	2.50	.20	0	0	0	0	0	0
$53	$54	9.60	7.30	5.00	2.70	.40	0	0	0	0	0	0
$54	$55	9.80	7.50	5.20	2.90	.60	0	0	0	0	0	0
$55	$56	10.00	7.70	5.40	3.10	.80	0	0	0	0	0	0
$56	$57	10.20	7.90	5.60	3.20	.90	0	0	0	0	0	0
$57	$58	10.40	8.00	5.70	3.40	1.10	0	0	0	0	0	0
$58	$59	10.50	8.20	5.90	3.60	1.30	0	0	0	0	0	0
$59	$60	10.70	8.40	6.10	3.80	1.50	0	0	0	0	0	0
$60	$62	11.00	8.70	6.40	4.10	1.70	0	0	0	0	0	0
$62	$64	11.30	9.00	6.70	4.40	2.10	0	0	0	0	0	0
$64	$66	11.70	9.40	7.10	4.80	2.50	.20	0	0	0	0	0
$66	$68	12.10	9.80	7.40	5.10	2.80	.50	0	0	0	0	0
$68	$70	12.40	10.10	7.80	5.50	3.20	.90	0	0	0	0	0
$70	$72	12.80	10.50	8.20	5.90	3.50	1.20	0	0	0	0	0
$72	$74	13.10	10.80	8.50	6.20	3.90	1.60	0	0	0	0	0
$74	$76	13.50	11.20	8.90	6.60	4.30	2.00	0	0	0	0	0
$76	$78	13.90	11.60	9.20	6.90	4.60	2.30	0	0	0	0	0
$78	$80	14.20	11.90	9.60	7.30	5.00	2.70	.40	0	0	0	0
$80	$82	14.60	12.30	10.00	7.70	5.30	3.00	.70	0	0	0	0
$82	$84	14.90	12.60	10.30	8.00	5.70	3.40	1.10	0	0	0	0
$84	$86	15.30	13.00	10.70	8.40	6.10	3.80	1.50	0	0	0	0
$86	$88	15.70	13.40	11.00	8.70	6.40	4.10	1.80	0	0	0	0
$88	$90	16.00	13.70	11.40	9.10	6.80	4.50	2.20	0	0	0	0
$90	$92	16.40	14.10	11.80	9.50	7.10	4.80	2.50	.20	0	0	0
$92	$94	16.70	14.40	12.10	9.80	7.50	5.20	2.90	.60	0	0	0
$94	$96	17.10	14.80	12.50	10.20	7.90	5.60	3.30	.90	0	0	0
$96	$98	17.50	15.20	12.80	10.50	8.20	5.90	3.60	1.30	0	0	0
$98	$100	17.80	15.50	13.20	10.90	8.60	6.30	4.00	1.70	0	0	0
$100	$105	18.50	16.10	13.80	11.50	9.20	6.90	4.60	2.30	0	0	0
$105	$110	19.40	17.00	14.70	12.40	10.10	7.80	5.50	3.20	.90	0	0
$110	$115	20.30	17.90	15.60	13.30	11.00	8.70	6.40	4.10	1.80	0	0
$115	$120	21.20	18.80	16.50	14.20	11.90	9.60	7.30	5.00	2.70	.40	0
$120	$125	22.10	19.70	17.40	15.10	12.80	10.50	8.20	5.90	3.60	1.30	0
$125	$130	23.00	20.60	18.30	16.00	13.70	11.40	9.10	6.80	4.50	2.20	0
$130	$135	23.90	21.50	19.20	16.90	14.60	12.30	10.00	7.70	5.40	3.10	.80
$135	$140	24.80	22.40	20.10	17.80	15.50	13.20	10.90	8.60	6.30	4.00	1.70
$140	$145	25.70	23.30	21.00	18.70	16.40	14.10	11.80	9.50	7.20	4.90	2.60
$145	$150	26.60	24.20	21.90	19.60	17.30	15.00	12.70	10.40	8.10	5.80	3.50
$150	$160	27.90	25.60	23.30	21.00	18.70	16.40	14.10	11.70	9.40	7.10	4.80
$160	$170	29.70	27.40	25.10	22.80	20.50	18.20	15.90	13.50	11.20	8.90	6.60
$170	$180	31.50	29.20	26.90	24.60	22.30	20.00	17.70	15.30	13.00	10.70	8.40
$180	$190	33.30	31.00	28.70	26.40	24.10	21.80	19.50	17.10	14.80	12.50	10.20
$190	$200	35.10	32.80	30.50	28.20	25.90	23.60	21.30	18.90	16.60	14.30	12.00
		18 percent of the excess over $200 plus—										
$200 and over		36.00	33.70	31.40	29.10	26.80	24.50	22.20	19.80	17.50	15.20	12.00

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS BIWEEKLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$26	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$26	$28	$4.90	.20	0	0	0	0	0	0	0	0	0
$28	$30	5.20	.60	0	0	0	0	0	0	0	0	0
$30	$32	5.60	1.00	0	0	0	0	0	0	0	0	0
$32	$34	5.90	1.30	0	0	0	0	0	0	0	0	0
$34	$36	6.30	1.70	0	0	0	0	0	0	0	0	0
$36	$38	6.70	2.00	0	0	0	0	0	0	0	0	0
$38	$40	7.00	2.40	0	0	0	0	0	0	0	0	0
$40	$42	7.40	2.80	0	0	0	0	0	0	0	0	0
$42	$44	7.70	3.10	0	0	0	0	0	0	0	0	0
$44	$46	8.10	3.50	0	0	0	0	0	0	0	0	0
$46	$48	8.50	3.80	0	0	0	0	0	0	0	0	0
$48	$50	8.80	4.20	0	0	0	0	0	0	0	0	0
$50	$52	9.20	4.60	0	0	0	0	0	0	0	0	0
$52	$54	9.50	4.90	.00	0	0	0	0	0	0	0	0
$54	$56	9.90	5.30	.70	0	0	0	0	0	0	0	0
$56	$58	10.30	5.60	1.00	0	0	0	0	0	0	0	0
$58	$60	10.60	6.00	1.40	0	0	0	0	0	0	0	0
$60	$62	11.00	6.40	1.70	0	0	0	0	0	0	0	0
$62	$64	11.30	6.70	2.10	0	0	0	0	0	0	0	0
$64	$66	11.70	7.10	2.50	0	0	0	0	0	0	0	0
$66	$68	12.10	7.40	2.80	0	0	0	0	0	0	0	0
$68	$70	12.40	7.80	3.20	0	0	0	0	0	0	0	0
$70	$72	12.80	8.20	3.50	0	0	0	0	0	0	0	0
$72	$74	13.10	8.50	3.90	0	0	0	0	0	0	0	0
$74	$76	13.50	8.90	4.30	0	0	0	0	0	0	0	0
$76	$78	13.90	9.20	4.60	0	0	0	0	0	0	0	0
$78	$80	14.20	9.60	5.00	.40	0	0	0	0	0	0	0
$80	$82	14.60	10.00	5.30	.70	0	0	0	0	0	0	0
$82	$84	14.90	10.30	5.70	1.10	0	0	0	0	0	0	0
$84	$86	15.30	10.70	6.10	1.50	0	0	0	0	0	0	0
$86	$88	15.70	11.00	6.40	1.80	0	0	0	0	0	0	0
$88	$90	16.00	11.40	6.80	2.20	0	0	0	0	0	0	0
$90	$92	16.40	11.80	7.10	2.50	0	0	0	0	0	0	0
$92	$94	16.70	12.10	7.50	2.90	0	0	0	0	0	0	0
$94	$96	17.10	12.50	7.90	3.30	0	0	0	0	0	0	0
$96	$98	17.50	12.80	8.20	3.60	0	0	0	0	0	0	0
$98	$100	17.80	13.20	8.60	4.00	0	0	0	0	0	0	0
$100	$102	18.20	13.60	8.90	4.30	0	0	0	0	0	0	0
$102	$104	18.50	13.90	9.30	4.70	.10	0	0	0	0	0	0
$104	$106	18.90	14.30	9.70	5.10	.40	0	0	0	0	0	0
$106	$108	19.30	14.60	10.00	5.40	.80	0	0	0	0	0	0
$108	$110	19.60	15.00	10.40	5.80	1.20	0	0	0	0	0	0
$110	$112	20.00	15.40	10.70	6.10	1.50	0	0	0	0	0	0
$112	$114	20.30	15.70	11.10	6.50	1.90	0	0	0	0	0	0
$114	$116	20.70	16.10	11.50	6.90	2.20	0	0	0	0	0	0
$116	$118	21.10	16.40	11.80	7.20	2.60	0	0	0	0	0	0
$118	$120	21.40	16.80	12.20	7.60	3.00	0	0	0	0	0	0
$120	$124	22.00	17.30	12.70	8.10	3.50	0	0	0	0	0	0
$124	$128	22.70	18.10	13.40	8.80	4.20	0	0	0	0	0	0
$128	$132	23.40	18.80	14.20	9.60	4.90	.30	0	0	0	0	0
$132	$136	24.10	19.50	14.90	10.30	5.70	1.00	0	0	0	0	0
$136	$140	24.80	20.20	15.60	11.00	6.40	1.80	0	0	0	0	0
$140	$144	25.60	20.90	16.30	11.70	7.10	2.50	0	0	0	0	0
$144	$148	26.30	21.70	17.00	12.40	7.80	3.20	0	0	0	0	0
$148	$152	27.00	22.40	17.80	13.20	8.50	3.90	0	0	0	0	0
$152	$156	27.70	23.10	18.50	13.90	9.30	4.60	0	0	0	0	0
$156	$160	28.40	23.80	19.20	14.60	10.00	5.40	.70	0	0	0	0
$160	$164	29.20	24.50	19.90	15.30	10.70	6.10	1.50	0	0	0	0
$164	$168	29.90	25.30	20.60	16.00	11.40	6.80	2.20	0	0	0	0
$168	$172	30.60	26.00	21.40	16.80	12.10	7.50	2.90	0	0	0	0
$172	$176	31.30	26.70	22.10	17.50	12.90	8.20	3.60	0	0	0	0
$176	$180	32.00	27.40	22.80	18.20	13.60	9.00	4.30	0	0	0	0
$180	$184	32.80	28.10	23.50	18.90	14.30	9.70	5.10	.50	0	0	0
$184	$188	33.50	28.90	24.20	19.60	15.00	10.40	5.80	1.20	0	0	0
$188	$192	34.20	29.60	25.00	20.40	15.70	11.10	6.50	1.90	0	0	0
$192	$196	34.90	30.30	25.70	21.10	16.50	11.80	7.20	2.60	0	0	0
$196	$200	35.60	31.00	26.40	21.80	17.20	12.60	7.90	3.30	0	0	0
$200	$210	36.90	32.30	27.70	23.10	18.40	13.80	9.20	4.60	0	0	0
$210	$220	38.70	34.10	29.50	24.90	20.20	15.60	11.00	6.40	1.80	0	0
$220	$230	40.50	35.90	31.30	26.70	22.00	17.40	12.80	8.20	3.60	0	0
$230	$240	42.30	37.70	33.10	28.50	23.80	19.20	14.60	10.00	5.40	.80	0
$240	$250	44.10	39.50	34.90	30.30	25.60	21.00	16.40	11.80	7.20	2.60	0
$250	$260	45.90	41.30	36.70	32.10	27.40	22.80	18.20	13.60	9.00	4.40	0
$260	$270	47.70	43.10	38.50	33.90	29.20	24.60	20.00	15.40	10.80	6.20	1.60
$270	$280	49.50	44.90	40.30	35.70	31.00	26.40	21.80	17.20	12.60	8.00	3.30
$280	$290	51.30	46.70	42.10	37.50	32.80	28.20	23.60	19.00	14.40	9.80	5.10
$290	$300	53.10	48.50	43.90	39.30	34.60	30.00	25.40	20.80	16.20	11.60	6.90
$300	$320	55.80	51.20	46.60	42.00	37.30	32.70	28.10	23.50	18.90	14.30	9.60
$320	$340	59.40	54.80	50.20	45.60	40.90	36.30	31.70	27.10	22.50	17.90	13.20
$340	$360	63.00	58.40	53.80	49.20	44.50	39.90	35.30	30.70	26.10	21.50	16.80
$360	$380	66.60	62.00	57.40	52.80	48.10	43.50	38.90	34.30	29.70	25.10	20.40
$380	$400	70.20	65.60	61.00	56.40	51.70	47.10	42.50	37.90	33.30	28.70	24.00
		18 percent of the excess over $400 plus—										
$400 and over		72.00	67.40	62.80	58.20	53.50	48.90	44.30	39.70	35.10	30.50	25.80

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS SEMIMONTHLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$28	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$28	$30	$5.20	.20	0	0	0	0	0	0	0	0	0
$30	$32	5.60	.60	0	0	0	0	0	0	0	0	0
$32	$34	5.90	.90	0	0	0	0	0	0	0	0	0
$34	$36	6.30	1.30	0	0	0	0	0	0	0	0	0
$36	$38	6.70	1.70	0	0	0	0	0	0	0	0	0
$38	$40	7.00	2.00	0	0	0	0	0	0	0	0	0
$40	$42	7.40	2.40	0	0	0	0	0	0	0	0	0
$42	$44	7.70	2.70	0	0	0	0	0	0	0	0	0
$44	$46	8.10	3.10	0	0	0	0	0	0	0	0	0
$46	$48	8.50	3.50	0	0	0	0	0	0	0	0	0
$48	$50	8.80	3.80	0	0	0	0	0	0	0	0	0
$50	$52	9.20	4.20	0	0	0	0	0	0	0	0	0
$52	$54	9.50	4.50	0	0	0	0	0	0	0	0	0
$54	$56	9.90	4.90	0	0	0	0	0	0	0	0	0
$56	$58	10.30	5.30	.30	0	0	0	0	0	0	0	0
$58	$60	10.60	5.60	.60	0	0	0	0	0	0	0	0
$60	$62	11.00	6.00	1.00	0	0	0	0	0	0	0	0
$62	$64	11.30	6.30	1.30	0	0	0	0	0	0	0	0
$64	$66	11.70	6.70	1.70	0	0	0	0	0	0	0	0
$66	$68	12.10	7.10	2.10	0	0	0	0	0	0	0	0
$68	$70	12.40	7.40	2.40	0	0	0	0	0	0	0	0
$70	$72	12.80	7.80	2.80	0	0	0	0	0	0	0	0
$72	$74	13.10	8.10	3.10	0	0	0	0	0	0	0	0
$74	$76	13.50	8.50	3.50	0	0	0	0	0	0	0	0
$76	$78	13.90	8.90	3.90	0	0	0	0	0	0	0	0
$78	$80	14.20	9.20	4.20	0	0	0	0	0	0	0	0
$80	$82	14.60	9.60	4.60	0	0	0	0	0	0	0	0
$82	$84	14.90	9.90	4.90	0	0	0	0	0	0	0	0
$84	$86	15.30	10.30	5.30	.30	0	0	0	0	0	0	0
$86	$88	15.70	10.70	5.70	.70	0	0	0	0	0	0	0
$88	$90	16.00	11.00	6.00	1.00	0	0	0	0	0	0	0
$90	$92	16.40	11.40	6.40	1.40	0	0	0	0	0	0	0
$92	$94	16.70	11.70	6.70	1.70	0	0	0	0	0	0	0
$94	$96	17.10	12.10	7.10	2.10	0	0	0	0	0	0	0
$96	$98	17.50	12.50	7.50	2.50	0	0	0	0	0	0	0
$98	$100	17.80	12.80	7.80	2.80	0	0	0	0	0	0	0
$100	$102	18.20	13.20	8.20	3.20	0	0	0	0	0	0	0
$102	$104	18.50	13.50	8.50	3.50	0	0	0	0	0	0	0
$104	$106	18.90	13.90	8.90	3.90	0	0	0	0	0	0	0
$106	$108	19.30	14.30	9.30	4.30	0	0	0	0	0	0	0
$108	$110	19.60	14.60	9.60	4.60	0	0	0	0	0	0	0
$110	$112	20.00	15.00	10.00	5.00	0	0	0	0	0	0	0
$112	$114	20.30	15.30	10.30	5.30	.30	0	0	0	0	0	0
$114	$116	20.70	15.70	10.70	5.70	.70	0	0	0	0	0	0
$116	$118	21.10	16.10	11.10	6.10	1.10	0	0	0	0	0	0
$118	$120	21.40	16.40	11.40	6.40	1.40	0	0	0	0	0	0
$120	$124	22.00	17.00	12.00	7.00	2.00	0	0	0	0	0	0
$124	$128	22.70	17.70	12.70	7.70	2.70	0	0	0	0	0	0
$128	$132	23.40	18.40	13.40	8.40	3.40	0	0	0	0	0	0
$132	$136	24.10	19.10	14.10	9.10	4.10	0	0	0	0	0	0
$136	$140	24.80	19.80	14.80	9.80	4.80	0	0	0	0	0	0
$140	$144	25.60	20.60	15.60	10.60	5.60	.60	0	0	0	0	0
$144	$148	26.30	21.30	16.30	11.30	6.30	1.30	0	0	0	0	0
$148	$152	27.00	22.00	17.00	12.00	7.00	2.00	0	0	0	0	0
$152	$156	27.70	22.70	17.70	12.70	7.70	2.70	0	0	0	0	0
$156	$160	28.40	23.40	18.40	13.40	8.40	3.40	0	0	0	0	0
$160	$164	29.20	24.20	19.20	14.20	9.20	4.20	0	0	0	0	0
$164	$168	29.90	24.90	19.90	14.90	9.90	4.90	0	0	0	0	0
$168	$172	30.60	25.60	20.60	15.60	10.60	5.60	.60	0	0	0	0
$172	$176	31.30	26.30	21.30	16.30	11.30	6.30	1.30	0	0	0	0
$176	$180	32.00	27.00	22.00	17.00	12.00	7.00	2.00	0	0	0	0
$180	$184	32.80	27.80	22.80	17.80	12.80	7.80	2.80	0	0	0	0
$184	$188	33.50	28.50	23.50	18.50	13.50	8.50	3.50	0	0	0	0
$188	$192	34.20	29.20	24.20	19.20	14.20	9.20	4.20	0	0	0	0
$192	$196	34.90	29.90	24.90	19.90	14.90	9.90	4.90	0	0	0	0
$196	$200	35.60	30.60	25.60	20.60	15.60	10.60	5.60	.60	0	0	0
$200	$210	36.90	31.90	26.90	21.90	16.90	11.90	6.90	1.90	0	0	0
$210	$220	38.70	33.70	28.70	23.70	18.70	13.70	8.70	3.70	0	0	0
$220	$230	40.50	35.50	30.50	25.50	20.50	15.50	10.50	5.50	.50	0	0
$230	$240	42.30	37.30	32.30	27.30	22.30	17.30	12.30	7.30	2.30	0	0
$240	$250	44.10	39.10	34.10	29.10	24.10	19.10	14.10	9.10	4.10	0	0
$250	$260	45.90	40.90	35.90	30.90	25.90	20.90	15.90	10.90	5.90	.90	0
$260	$270	47.70	42.70	37.70	32.70	27.70	22.70	17.70	12.70	7.70	2.70	0
$270	$280	49.50	44.50	39.50	34.50	29.50	24.50	19.50	14.50	9.50	4.50	0
$280	$290	51.30	46.30	41.30	36.30	31.30	26.30	21.30	16.30	11.30	6.30	1.30
$290	$300	53.10	48.10	43.10	38.10	33.10	28.10	23.10	18.10	13.10	8.10	3.10
$300	$320	55.80	50.80	45.80	40.80	35.80	30.80	25.80	20.80	15.80	10.80	5.80
$320	$340	59.40	54.40	49.40	44.40	39.40	34.40	29.40	24.40	19.40	14.40	9.40
$340	$360	63.00	58.00	53.00	48.00	43.00	38.00	33.00	28.00	23.00	18.00	13.00
$360	$380	66.60	61.60	56.60	51.60	46.60	41.60	36.60	31.60	26.60	21.60	16.60
$380	$400	70.20	65.20	60.20	55.20	50.20	45.20	40.20	35.20	30.20	25.20	20.20
$400	$420	73.80	68.80	63.80	58.80	53.80	48.80	43.80	38.80	33.80	28.80	23.80
$420	$440	77.40	72.40	67.40	62.40	57.40	52.40	47.40	42.40	37.40	32.40	27.40
$440	$460	81.00	76.00	71.00	66.00	61.00	56.00	51.00	46.00	41.00	36.00	31.00
$460	$480	84.60	79.60	74.60	69.60	64.60	59.60	54.60	49.60	44.60	39.60	34.60
$480	$500	88.20	83.20	78.20	73.20	68.20	63.20	58.20	53.20	48.20	43.20	38.20
		18 percent of the excess over $500 plus—										
$500 and over		90.00	85.00	80.00	75.00	70.00	65.00	60.00	55.00	50.00	45.00	40.00

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS MONTHLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$56	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$56	$60	$10.40	40	0	0	0	0	0	0	0	0	0
$60	$64	11.20	1.20	0	0	0	0	0	0	0	0	0
$64	$68	11.90	1.90	0	0	0	0	0	0	0	0	0
$68	$72	12.60	2.60	0	0	0	0	0	0	0	0	0
$72	$76	13.30	3.30	0	0	0	0	0	0	0	0	0
$76	$80	14.00	4.00	0	0	0	0	0	0	0	0	0
$80	$84	14.80	4.80	0	0	0	0	0	0	0	0	0
$84	$88	15.50	5.50	0	0	0	0	0	0	0	0	0
$88	$92	16.20	6.20	0	0	0	0	0	0	0	0	0
$92	$96	16.90	6.90	0	0	0	0	0	0	0	0	0
$96	$100	17.60	7.60	0	0	0	0	0	0	0	0	0
$100	$104	18.40	8.40	0	0	0	0	0	0	0	0	0
$104	$108	19.10	9.10	0	0	0	0	0	0	0	0	0
$108	$112	19.80	9.80	0	0	0	0	0	0	0	0	0
$112	$116	20.50	10.50	.50	0	0	0	0	0	0	0	0
$116	$120	21.20	11.20	1.20	0	0	0	0	0	0	0	0
$120	$124	22.00	12.00	2.00	0	0	0	0	0	0	0	0
$124	$128	22.70	12.70	2.70	0	0	0	0	0	0	0	0
$128	$132	23.40	13.40	3.40	0	0	0	0	0	0	0	0
$132	$136	24.10	14.10	4.10	0	0	0	0	0	0	0	0
$136	$140	24.80	14.80	4.80	0	0	0	0	0	0	0	0
$140	$144	25.60	15.60	5.60	0	0	0	0	0	0	0	0
$144	$148	26.30	16.30	6.30	0	0	0	0	0	0	0	0
$148	$152	27.00	17.00	7.00	0	0	0	0	0	0	0	0
$152	$156	27.70	17.70	7.70	0	0	0	0	0	0	0	0
$156	$160	28.40	18.40	8.40	0	0	0	0	0	0	0	0
$160	$164	29.20	19.20	9.20	0	0	0	0	0	0	0	0
$164	$168	29.90	19.90	9.90	0	0	0	0	0	0	0	0
$168	$172	30.60	20.60	10.60	.60	0	0	0	0	0	0	0
$172	$176	31.30	21.30	11.30	1.30	0	0	0	0	0	0	0
$176	$180	32.00	22.00	12.00	2.00	0	0	0	0	0	0	0
$180	$184	32.80	22.80	12.80	2.80	0	0	0	0	0	0	0
$184	$188	33.50	23.50	13.50	3.50	0	0	0	0	0	0	0
$188	$192	34.20	24.20	14.20	4.20	0	0	0	0	0	0	0
$192	$196	34.90	24.90	14.90	4.90	0	0	0	0	0	0	0
$196	$200	35.60	25.60	15.60	5.60	0	0	0	0	0	0	0
$200	$204	36.40	26.40	16.40	6.40	0	0	0	0	0	0	0
$204	$208	37.10	27.10	17.10	7.10	0	0	0	0	0	0	0
$208	$212	37.80	27.80	17.80	7.80	0	0	0	0	0	0	0
$212	$216	38.50	28.50	18.50	8.50	0	0	0	0	0	0	0
$216	$220	39.20	29.20	19.20	9.20	0	0	0	0	0	0	0
$220	$224	40.00	30.00	20.00	10.00	0	0	0	0	0	0	0
$224	$228	40.70	30.70	20.70	10.70	.70	0	0	0	0	0	0
$228	$232	41.40	31.40	21.40	11.40	1.40	0	0	0	0	0	0
$232	$236	42.10	32.10	22.10	12.10	2.10	0	0	0	0	0	0
$236	$240	42.80	32.80	22.80	12.80	2.80	0	0	0	0	0	0
$240	$248	43.90	33.90	23.90	13.90	3.90	0	0	0	0	0	0
$248	$256	45.40	35.40	25.40	15.40	5.40	0	0	0	0	0	0
$256	$264	46.80	36.80	26.80	16.80	6.80	0	0	0	0	0	0
$264	$272	48.20	38.20	28.20	18.20	8.20	0	0	0	0	0	0
$272	$280	49.70	39.70	29.70	19.70	9.70	0	0	0	0	0	0
$280	$288	51.10	41.10	31.10	21.10	11.10	1.10	0	0	0	0	0
$288	$296	52.60	42.60	32.60	22.60	12.60	2.60	0	0	0	0	0
$296	$304	54.00	44.00	34.00	24.00	14.00	4.00	0	0	0	0	0
$304	$312	55.40	45.40	35.40	25.40	15.40	5.40	0	0	0	0	0
$312	$320	56.90	46.90	36.90	26.90	16.90	6.90	0	0	0	0	0
$320	$328	58.30	48.30	38.30	28.30	18.30	8.30	0	0	0	0	0
$328	$336	59.80	49.80	39.80	29.80	19.80	9.80	0	0	0	0	0
$336	$344	61.20	51.20	41.20	31.20	21.20	11.20	1.20	0	0	0	0
$344	$352	62.60	52.60	42.60	32.60	22.60	12.60	2.60	0	0	0	0
$352	$360	64.10	54.10	44.10	34.10	24.10	14.10	4.10	0	0	0	0
$360	$368	65.50	55.50	45.50	35.50	25.50	15.50	5.50	0	0	0	0
$368	$376	67.00	57.00	47.00	37.00	27.00	17.00	7.00	0	0	0	0
$376	$384	68.40	58.40	48.40	38.40	28.40	18.40	8.40	0	0	0	0
$384	$392	69.80	59.80	49.80	39.80	29.80	19.80	9.80	0	0	0	0
$392	$400	71.30	61.30	51.30	41.30	31.30	21.30	11.30	1.30	0	0	0
$400	$420	73.80	63.80	53.80	43.80	33.80	23.80	13.80	3.80	0	0	0
$420	$440	77.40	67.40	57.40	47.40	37.40	27.40	17.40	7.40	0	0	0
$440	$460	81.00	71.00	61.00	51.00	41.00	31.00	21.00	11.00	1.00	0	0
$460	$480	84.60	74.60	64.60	54.60	44.60	34.60	24.60	14.60	4.60	0	0
$480	$500	88.20	78.20	68.20	58.20	48.20	38.20	28.20	18.20	8.20	0	0
$500	$520	91.80	81.80	71.80	61.80	51.80	41.80	31.80	21.80	11.80	1.80	0
$520	$540	95.40	85.40	75.40	65.40	55.40	45.40	35.40	25.40	15.40	5.40	0
$540	$560	99.00	89.00	79.00	69.00	59.00	49.00	39.00	29.00	19.00	9.00	0
$560	$580	102.60	92.60	82.60	72.60	62.60	52.60	42.60	32.60	22.60	12.60	2.60
$580	$600	106.20	96.20	86.20	76.20	66.20	56.20	46.20	36.20	26.20	16.20	6.20
$600	$640	111.60	101.60	91.60	81.60	71.60	61.60	51.60	41.60	31.60	21.60	11.60
$640	$680	118.80	108.80	98.80	88.80	78.80	68.80	58.80	48.80	38.80	28.80	18.80
$680	$720	126.00	116.00	106.00	96.00	86.00	76.00	66.00	56.00	46.00	36.00	26.00
$720	$760	133.20	123.20	113.20	103.20	93.20	83.20	73.20	63.20	53.20	43.20	33.20
$760	$800	140.40	130.40	120.40	110.40	100.40	90.40	80.40	70.40	60.40	50.40	40.40
$800	$840	147.60	137.60	127.60	117.60	107.60	97.60	87.60	77.60	67.60	57.60	47.60
$840	$880	154.80	144.80	134.80	124.80	114.80	104.80	94.80	84.80	74.80	64.80	54.80
$880	$920	162.00	152.00	142.00	132.00	122.00	112.00	102.00	92.00	82.00	72.00	62.00
$920	$960	169.20	159.20	149.20	139.20	129.20	119.20	109.20	99.20	89.20	79.20	69.20
$960	$1,000	176.40	166.40	156.40	146.40	136.40	126.40	116.40	106.40	96.40	86.40	76.40
		18 percent of the excess over $1,000 plus—										
$1,000 and over		180.00	170.00	160.00	150.00	140.00	130.00	120.00	110.00	100.00	90.00	80.00

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS A DAILY PAYROLL PERIOD OR A MISCELLANEOUS PAYROLL PERIOD

And the wages divided by the number of days in such period are—		And the number of withholding exemptions claimed is—										
		0	1	2	3	4	5	6	7	8	9	10 or more
At least	But less than	The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—										
$0	$2.00	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$2.00	$2.25	$0.40	.05	0	0	0	0	0	0	0	0	0
$2.25	$2.50	.45	.10	0	0	0	0	0	0	0	0	0
$2.50	$2.75	.45	.15	0	0	0	0	0	0	0	0	0
$2.75	$3.00	.50	.20	0	0	0	0	0	0	0	0	0
$3.00	$3.25	.55	.25	0	0	0	0	0	0	0	0	0
$3.25	$3.50	.60	.30	0	0	0	0	0	0	0	0	0
$3.50	$3.75	.65	.30	0	0	0	0	0	0	0	0	0
$3.75	$4.00	.70	.35	.05	0	0	0	0	0	0	0	0
$4.00	$4.25	.75	.40	.10	0	0	0	0	0	0	0	0
$4.25	$4.50	.80	.45	.15	0	0	0	0	0	0	0	0
$4.50	$4.75	.85	.50	.15	0	0	0	0	0	0	0	0
$4.75	$5.00	.90	.55	.20	0	0	0	0	0	0	0	0
$5.00	$5.25	.90	.60	.25	0	0	0	0	0	0	0	0
$5.25	$5.50	.95	.65	.30	0	0	0	0	0	0	0	0
$5.50	$5.75	1.00	.70	.35	.05	0	0	0	0	0	0	0
$5.75	$6.00	1.05	.75	.40	.05	0	0	0	0	0	0	0
$6.00	$6.25	1.10	.75	.45	.10	0	0	0	0	0	0	0
$6.25	$6.50	1.15	.80	.50	.15	0	0	0	0	0	0	0
$6.50	$6.75	1.20	.85	.55	.20	0	0	0	0	0	0	0
$6.75	$7.00	1.25	.90	.60	.25	0	0	0	0	0	0	0
$7.00	$7.25	1.30	.95	.60	.30	0	0	0	0	0	0	0
$7.25	$7.50	1.35	1.00	.65	.35	0	0	0	0	0	0	0
$7.50	$7.75	1.35	1.05	.70	.40	.05	0	0	0	0	0	0
$7.75	$8.00	1.40	1.10	.75	.45	.10	0	0	0	0	0	0
$8.00	$8.25	1.45	1.15	.80	.50	.15	0	0	0	0	0	0
$8.25	$8.50	1.50	1.20	.85	.50	.20	0	0	0	0	0	0
$8.50	$8.75	1.55	1.20	.90	.55	.25	0	0	0	0	0	0
$8.75	$9.00	1.60	1.25	.95	.60	.30	0	0	0	0	0	0
$9.00	$9.25	1.65	1.30	1.00	.65	.35	0	0	0	0	0	0
$9.25	$9.50	1.70	1.35	1.05	.70	.35	.05	0	0	0	0	0
$9.50	$9.75	1.75	1.40	1.05	.75	.40	.10	0	0	0	0	0
$9.75	$10.00	1.80	1.45	1.10	.80	.45	.15	0	0	0	0	0
$10.00	$10.50	1.85	1.50	1.20	.85	.55	.20	0	0	0	0	0
$10.50	$11.00	1.95	1.60	1.30	.95	.60	.30	0	0	0	0	0
$11.00	$11.50	2.05	1.70	1.35	1.05	.70	.40	.05	0	0	0	0
$11.50	$12.00	2.10	1.80	1.45	1.15	.80	.45	.15	0	0	0	0
$12.00	$12.50	2.20	1.90	1.55	1.20	.90	.55	.25	0	0	0	0
$12.50	$13.00	2.30	1.95	1.65	1.30	1.00	.65	.30	0	0	0	0
$13.00	$13.50	2.40	2.05	1.75	1.40	1.05	.75	.40	.10	0	0	0
$13.50	$14.00	2.50	2.15	1.80	1.50	1.15	.85	.50	.15	0	0	0
$14.00	$14.50	2.55	2.25	1.90	1.60	1.25	.90	.60	.25	0	0	0
$14.50	$15.00	2.65	2.35	2.00	1.65	1.35	1.00	.70	.35	0	0	0
$15.00	$15.50	2.75	2.40	2.10	1.75	1.45	1.10	.75	.45	.10	0	0
$15.50	$16.00	2.85	2.50	2.20	1.85	1.50	1.20	.85	.55	.20	0	0
$16.00	$16.50	2.95	2.60	2.25	1.95	1.60	1.30	.95	.60	.30	0	0
$16.50	$17.00	3.00	2.70	2.35	2.05	1.70	1.35	1.05	.70	.40	.05	0
$17.00	$17.50	3.10	2.80	2.45	2.10	1.80	1.45	1.15	.80	.45	.15	0
$17.50	$18.00	3.20	2.85	2.55	2.20	1.90	1.55	1.20	.90	.55	.25	0
$18.00	$18.50	3.30	2.95	2.65	2.30	1.95	1.65	1.30	1.00	.65	.35	0
$18.50	$19.00	3.40	3.05	2.70	2.40	2.05	1.75	1.40	1.05	.75	.40	.10
$19.00	$19.50	3.45	3.15	2.80	2.50	2.15	1.80	1.50	1.15	.85	.50	.20
$19.50	$20.00	3.55	3.25	2.90	2.55	2.25	1.90	1.60	1.25	.90	.60	.25
$20.00	$21.00	3.70	3.35	3.05	2.70	2.35	2.05	1.70	1.40	1.05	.75	.40
$21.00	$22.00	3.85	3.55	3.20	2.90	2.55	2.25	1.90	1.55	1.25	.90	.60
$22.00	$23.00	4.05	3.70	3.40	3.05	2.75	2.40	2.10	1.75	1.40	1.10	.75
$23.00	$24.00	4.25	3.90	3.55	3.25	2.90	2.60	2.25	1.95	1.60	1.25	.95
$24.00	$25.00	4.40	4.10	3.75	3.40	3.10	2.75	2.45	2.10	1.80	1.45	1.10
$25.00	$26.00	4.60	4.25	3.95	3.60	3.25	2.95	2.60	2.30	1.95	1.65	1.30
$26.00	$27.00	4.75	4.45	4.10	3.80	3.45	3.15	2.80	2.45	2.15	1.80	1.50
$27.00	$28.00	4.95	4.60	4.30	3.95	3.65	3.30	3.00	2.65	2.30	2.00	1.65
$28.00	$29.00	5.15	4.80	4.45	4.15	3.80	3.50	3.15	2.85	2.50	2.15	1.85
$29.00	$30.00	5.30	5.00	4.65	4.30	4.00	3.65	3.35	3.00	2.70	2.35	2.00
		18 percent of the excess over $30 plus—										
$30.00 and over		5.40	5.05	4.75	4.40	4.10	3.75	3.45	3.10	2.75	2.45	2.10

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commissioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(5) If the wages exceed the highest wage bracket, in determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

[Sec. 1622 (c), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (c), Individual Income Tax Act 1944; sec. 104 (b), Revenue Act 1945; sec. 502, Revenue Act 1948; sec. 142, Revenue Act 1950; sec. 202, Revenue Act 1951.]

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SEC. 1621. DEFINITIONS.

As used in this subchapter—

* * * * *

(b) *Payroll period.* The term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

[Sec. 1621 (b), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.301 *Payroll period.* (a) The term "payroll period" means the period of service for which a payment of wages is ordinarily made to an employee by his employer. It is immaterial that the wages are not always paid at regular intervals. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but if for some reason the employee in a given week receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the payroll period is still the calendar week; or if, instead, that employee is sent on a 3-week trip by his employer and receives at the end of the trip a single wage payment for three weeks' services, the payroll period is still the calendar week, and the wage payment shall be treated as though it were three separate weekly wage payments.

(b) For the purpose of section 1622, an employee can have but one payroll period with respect to wages paid by any one employer. Thus, if an employee is paid a regular wage for a weekly payroll period and in addition thereto is paid supplemental wages (for example, bonuses) determined with respect to a different period, the payroll period is the weekly payroll period. For computation of tax on supplemental wage payments see § 406.306.

(c) The term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

§ 406.302 *Requirement of withholding.* Section 1622 provides, at the election of the employer, alternative methods for computing the income tax collected at source on wages. Under the percentage method of withholding, the employer is required to deduct and withhold a tax computed in accordance with the provisions of section 1622 (a) Under the wage bracket method of withholding, the employer is required to deduct and withhold a tax determined in accordance with the tables provided in subsection (c) of section 1622. The employer may elect to use the percentage method in the case of one group of employees and the wage bracket method in the case of another group of employees.

§ 406.303 *Percentage method withholding*—(a) *In general.* (1) The percentage method of computing the amount of tax to be withheld makes use of the percentage method withholding table contained in section 1622 (b) (1) This table shows with respect to each of the designated payroll periods the amount allowable for one withholding exemption. The amount of the withholding exemption allowable with respect to a particular payroll period depends

upon the number of withholding exemptions claimed.

(2) The steps in computing the tax under such method are summarized as follows:

Step 1. Determine the amount of one withholding exemption for the particular payroll period from the percentage method withholding table.

Step 2. Multiply the amount of one withholding exemption by the number of exemptions claimed by the employee.

Step 3. Subtract the amount determined in step 2 from the employee's wages.

Step 4. Multiply the difference by the applicable percentage figure under section 1622 (a).

The result is the amount of tax to be withheld.

Example. During a year in which the effective rate under the percentage method of withholding is 0.18, an employee has a weekly payroll period, for which he is paid $75, and has in effect a withholding certificate claiming three exemptions. His employer, using the percentage method, computes the tax to be withheld as follows:

Step 1.	
Amount of one withholding exemption	$13.00
Step 2:	
Multiplied by number of exemptions claimed on Form W-4	X3
Total withholding exemption	39.00
Step 3:	
Total wage payment	75.00
Less amount determined in step 2	39.00
Balance subject to tax	36.00
Step 4:	
Tax to be withheld (balance multiplied by 0.18)	6.48

(b) *Established payroll periods, other than daily or miscellaneous, as shown in percentage method withholding table.* The amount of one withholding exemption, allowable with respect to each of the established payroll periods contained in the percentage method withholding table, is determined by reference to the line applicable to such payroll period and without reference to the time the employee is actually engaged in the performance of services during such payroll period.

Example (1). During 1954 employee C has a semimonthly payroll period. The number of withholding exemptions claimed by C is two. C's wages are determined at the rate of $1.20 per hour. During a certain payroll period he works only 40 hours and earns $48. Although C worked only 40 hours during the semimonthly payroll period, the applicable withholding exemption is $28, and the amount of two withholding exemptions, or $56, is allowable. Since the amount of the wages paid for the semimonthly payroll period is less than the amount allowed for two withholding exemptions for such period, the employer is not required to withhold any tax.

Example (2). During 1954 employee D has a weekly payroll period. The number of withholding exemptions claimed by D is two. D's wages are determined at the rate of $1.20 per hour. During a certain payroll period D works 30 hours and earns $36. Although D worked only 30 hours during the weekly payroll period, the applicable withholding exemption is $13, and the amount of two withholding exemptions, or $26, is allowable. The balance of $10 is subject to withholding.

(c) *Periods to which the daily or miscellaneous withholding exemption is applicable*—(1) *In general.* The percentage method withholding table shows for a daily or miscellaneous payroll period the withholding exemption allowable with respect to one day. Thus, in computing the withholding exemption allowable with respect to a particular miscellaneous payroll period, the withholding exemption shown in the table for one day of such period and the wages paid for the period must be placed on a comparable basis. This may be accomplished by either of the following methods:

(i) Adjust the percentage method withholding table to accord with the number of days in the period by multiplying the amount shown in the table as applicable per day of a miscellaneous payroll period by the number of days in such period.

(ii) Reduce the wages paid for the period to a daily basis by dividing the total wages by the number of days in the period.

(2) *Period not a payroll period.* If wages are paid for a period which is not a payroll period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

Example. An individual is hired by a contractor to perform services in connection with a building project. The number of withholding exemptions claimed by such individual is two. Wages were fixed at the rate of $9 per day, to be paid upon completion of the project. The project was completed during 1954 in 12 consecutive days, at the end of which period the individual is paid wages of $90 for 10 days' services performed during the period. For the purpose of computing the tax the amount of the withholding exemption allowable for the 12-day period is $43.20 (12×(2×$1.80)).

(3) *Wages paid without regard to any period.* In the case of wages paid without regard to any particular period, as, for example, commissions paid to a salesman upon completion of a sale, the withholding exemption is measured by the number of days elapsed (including Sundays and holidays) since the date of the last payment of wages to such employee by such employer during the calendar year, or the date on which employment with such employer began during the calendar year, or January 1 of such calendar year, whichever is the latest.

Example. On April 2, 1954, A was employed by the X Real Estate Co. to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. The number of withholding exemptions claimed by A is one. On May 21, 1954, A received a commission of $300. Again, on June 16, 1954, A received a commission of $400. The amount of the withholding exemption with respect to the commission paid on May 21 is $90 ($1.80×50). With respect to the commission paid on June 16, the amount of the withholding exemption is $46.80 ($1.80×26).

(d) *Period or elapsed time less than one week.* (1) It is the general rule that if wages are paid for a payroll period or other period of less than one week, the withholding exemption allowable shall be the exemption allowable for a daily payroll period, or a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period or other period for which such wages are paid. The same rule is applicable in the case of wages paid without regard to a payroll period or other period, where the elapsed time as determined in accordance with the rule prescribed in paragraph (c) of this section is less than one week.

Example (1). During 1954 an employee having a daily payroll period is paid wages of $12 per day. The number of withholding exemptions claimed by such employee is one. The amount of each such daily wage payment subject to withholding is $10.20 ($12.00−$1.80).

Example (2). During 1954 an employee works for a certain employer for four days, for which he is paid wages of $36. The number of withholding exemptions claimed by the employee is two. The amount of the withholding exemption allowable is $14.40 (4×$3.60).

(2) Under certain conditions, however, if the payroll period, other period, or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, at his election, deduct and withhold the tax computed as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period. Such election by the employer is limited to the case of an employee who works for wages only for such employer during the calendar week. Any employer electing to compute the tax upon the excess of the wages paid during the calendar week over the weekly exemption must secure a statement in writing from the employee, stating that he works for wages only for such employer, and that if he should thereafter secure additional employment for wages, he will within 10 days after the beginning of such additional employment, notify such employer of that fact. Such statement shall be signed by the employee and shall contain or be verified by a written declaration that it is made under the penalties of perjury. No form of statement is specified, but any form used must include the contents specified above. An employer electing to compute the tax in accordance with the provisions of this paragraph should withhold from each wage payment an amount sufficient to insure withholding of the correct amount of tax.

(3) If such employee secures additional employment for wages, such employer may not thereafter use the weekly exemption in computing the amount of tax to be withheld from the wages of such employee. In such event the daily or miscellaneous exemption will take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after 30 days from the date on which such employee notifies such employer that he has secured additional employment for wages.

(4) To illustrate the use of the weekly exemption in such a case: Assume the facts stated in example (2) of subparagraph (1) of this paragraph, except that the employer elects to use the weekly

withholding exemption after securing the proper statement from the employee. In such case, the amount of the withholding exemption allowable is $26 (2×$13)

(5) As used in this paragraph the term "calendar week" means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(e) *Rounding off of wage payment.* In determining the amount of tax to be deducted and withheld under the percentage method, the last digit of the wage amount may, at the election of the employer, be reduced to zero, or the wage amount may be computed to the nearest dollar. Thus, if the weekly wage is $45.37, the employer may, in determining the amount of tax to be deducted and withheld, reduce the last digit to zero and determine the tax on the basis of a wage payment of $45.30 or he may determine the tax on the basis of a wage payment of $45.

§ 406.304 *Wage bracket withholding*—(a) *In general.* The employer may elect to use the wage bracket method provided in section 1622 (c) instead of the percentage method with respect to any employee. The tax computed under the wage bracket method shall be in lieu of the tax required to be deducted and withheld under section 1622 (a) Wage bracket withholding tables for weekly, biweekly, semimonthly, monthly, and daily or miscellaneous payroll periods are contained in section 1622 (c)

(b) *Established payroll periods, other than daily or miscellaneous, covered by wage bracket withholding tables.* The wage bracket withholding tables contained in section 1622 (c) for established payroll periods other than daily or miscellaneous should be used in determining the tax to be withheld for any such period without reference to the time the employee is actually engaged in the performance of services during such payroll period.

Example (*1*). During 1954 employee C has a semimonthly payroll period. The number of withholding exemptions claimed by C is two. During a certain payroll period C works only 40 hours and earns $48. Although C worked only 40 hours during the semimonthly payroll period, the wage bracket withholding table for a semimonthly payroll period should be used in determining the tax to be withheld. Under this table it will be found that no tax is required to be withheld from a wage payment of $48 when two withholding exemptions are claimed.

Example (*2*). During 1954 employee D has a weekly payroll period. The number of withholding exemptions claimed by D is two. D's wages are determined at the rate of $1.20 per hour. During a certain payroll period D works 30 hours and earns $36. Although D worked only 30 hours during the weekly payroll period, the wage bracket withholding table for a weekly payroll period should be used in determining the tax to be withheld. Under this table it will be found that $2.00 is the amount of tax to be withheld from a wage payment of $36 when two withholding exemptions are claimed.

(c) *Periods to which the table for a daily or miscellaneous payroll period is applicable*—(1) *In general.* The table applicable to a daily or miscellaneous payroll period shows the tax on the amount of wages for one day. Where the withholding is computed under the rules applicable to a miscellaneous payroll period, the wages and the amounts shown in the table must be placed on a comparable basis. This may be accomplished by either of the following methods:

(i) Adjust the amounts shown in the table to accord with the number of days in the period by multiplying such amounts by the number of days in such period. The amount of the tax required to be withheld is determined by applying the table as adjusted to the total wages paid for the period.

(ii) Reduce the wages paid for the period to a daily basis by dividing the total wages by the number of days in the period. Apply the table to the wages so determined and multiply the result by the number of days in the period.

(2) *Period not a payroll period.* If wages are paid for a period which is not a payroll period, the amount to be deducted and withheld under the wage bracket method shall be the amount applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

Example. During 1954, an individual is hired by a contractor to perform services in connection with a construction project. The number of withholding exemptions claimed by the individual is two. Wages were fixed at the rate of $9 per day, to be paid upon completion of the project. The project was completed during 1954 in 12 days, at the end of which period the individual was paid $90, representing wages for 10 days' services performed during the period. Under the wage bracket method the amount to be deducted and withheld from such wages is determined by dividing the amount of the wages ($90) by the number of days in the period (12), the result being $7.50. The amount of tax required to be withheld is determined under the table applicable to a miscellaneous payroll period. Under this table the tax required to be withheld is $8.40 (12 x $0.70).

(3) *Wages paid without regard to any period.* If wages are paid without regard to any period, as, for instance, commissions paid to a salesman upon consummation of a sale, the amount of tax to be deducted and withheld shall be determined in the same manner as in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the latest.

Example. On April 2, 1954, A is hired by the X Real Estate Co. to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. The number of withholding exemptions claimed by A is one. On May 21, 1954, A receives a commission of $300. Again, on June 16, 1954, A receives a commission of $400. Under the wage bracket method, the amount of tax to be deducted and withheld in respect of the commission paid on May 21 is $37.50, which amount is obtained by multiplying $0.75 (tax under wage bracket table for a daily or miscellaneous payroll period where wages are at least $6 but less than $6.25 a day) by 50 (number of days elapsed) and the amount of tax to be withheld with respect to the commission paid on June 16 is $62.40, which amount is obtained by multiplying $2.40 (tax under wage bracket table for a daily or miscellaneous payroll period where wages are at least $15 but less than $15.50 a day) by 26 (number of days elapsed).

(d) *Period or elapsed time less than one week.* (1) It is the general rule that if wages are paid for a payroll period or other period of less than one week, the tax to be deducted and withheld under the wage bracket method shall be the amount computed for a daily payroll period, or for a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period, or other period, for which such wages are paid. In the case of wages paid without regard to any period, if the elapsed time computed as provided in paragraph (c) of this section is less than one week, the same rule is applicable.

Example (*1*). During 1954 an employee having a daily payroll period is paid wages of $7 per day. The number of withholding exemptions claimed by the employee is one. Under the table applicable to a daily payroll period, the amount of tax to be deducted and withheld from each such payment of wages is $0.95.

Example (*2*). During 1954 an individual is hired for four days, for which he is paid wages of $36. The number of withholding exemptions claimed by him is two. The amount of tax to be deducted and withheld under the wage bracket method is $4.00 (4×$1.00).

(2) If the payroll period, other period, or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, under certain conditions, elect to deduct and withhold the tax determined by the application of the wage table for a weekly payroll period to the aggregate of the wages paid to the employee during the calendar week. The election to use the weekly wage table in such cases is subject to the limitations and conditions prescribed in § 406.303 (d) with respect to employers using the percentage method in similar cases.

(e) *Rounding off of wage payment.* In determining the amount to be deducted and withheld under the wage bracket method the wage amount may, at the election of the employer, be computed to the nearest dollar, provided such amount is in excess of the highest wage bracket of the applicable table. Thus, if the payroll period of an employee is weekly and the wage payment of such employee is $255.25 the employer may compute the tax on the excess over $200 as if the excess were $55 instead of $55.25.

§ 406.305 *Statutory provisions; income tax collected at source; supplemental wage payments.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(1) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with re-

spect to which wages are also paid to such employee by such employer, or

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(3) With respect to a period beginning in one and ending in another calendar year, or

* * * * *

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.306 *Supplemental wage payments*—(a) *In general.* (1) An employee's remuneration may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period, or without regard to a particular period. When such supplemental wages are paid (whether or not at the same time as the regular wages) the amount of the tax required to be withheld under section 1622 (a) (the percentage method), or under section 1622 (c) (the wage bracket method) shall be determined in accordance with either subparagraph (2) or (3) of this paragraph.

(2) The supplemental wages shall be aggregated with the wages paid for the payroll period, or, if not paid concurrently, shall be aggregated with the wages paid for the last preceding payroll period within the same calendar year or the current payroll period, and the amount of tax to be withheld shall be determined as if the aggregate of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

Example (1). A is employed as a salesman at a monthly salary of $100 plus commissions on sales made during the month. The number of withholding exemptions claimed is one. During January 1954 A earned $275 in commissions, which together with the salary of $100 was paid on February 10, 1954. Under the wage bracket method the amount of the tax required to be withheld is shown in the table applicable to a monthly payroll period. Under this table it will be found that the amount of tax required to be withheld is $57.00.

Example (2). B is employed at a salary of $3,000 per annum paid semimonthly on the 15th day and the last day of each month, plus a bonus and commission determined at the end of each 3-month period. The number of withholding exemptions claimed is four. The bonus and commission for the 3-month period ending on March 31, 1954, amount to $250, which was paid on April 10, 1954. Under the wage bracket method, the amount of tax required to be withheld on the aggregate of the bonus of $250 and the last preceding semimonthly wage payment of $125, or $375, is $46.60. Since tax in the amount of $2.70 was withheld on the semimonthly wage payment of $125, the amount to be withheld on April 10, 1954, is $43.90.

(3) If supplemental wages are paid and tax has been withheld from the employee's regular wages, the employer may determine the tax to be withheld from supplemental wages by using the applicable rate under section 1622 (a) without allowance for exemption and without reference to any regular payment of wages.

(b) *Special rule where aggregate withholding exemption exceeds wages paid.* (1) If supplemental wages are paid to an employee during a calendar year for a period which involves two or more consecutive payroll periods the wages for which are also paid during such calendar year and the aggregate of the wages paid for such payroll periods is less than the aggregate of the amounts determined under the table provided in section 1622 (b) (1) as the withholding exemptions applicable for such payroll periods, the amount of the tax required to be withheld on the supplemental wages shall be computed as follows:

(i) Determine an average wage for each of such payroll periods by dividing the sum of the supplemental wages and the wages paid for such payroll periods by the number of such payroll periods.

(ii) Determine a tax for each payroll period as if the amount of the average wage constituted the wages paid for such payroll period.

(iii) From the sum of the taxes computed on the basis of the average wage per payroll period subtract the sum of the taxes previously withheld for such payroll periods and the remainder, if any, shall constitute the amount of the tax to be withheld upon the supplemental wages.

(2) The rules prescribed in this paragraph shall, at the election of the employer, be applied in lieu of the rules prescribed in paragraph (a) of this section except that this paragraph shall not be applicable in any case in which the payroll period of the employee is less than one week.

Example. An employee has a weekly payroll period ending on Saturday of each week, the wages for which are paid on Friday of the succeeding week. On the 10th day of each month he is paid a bonus based upon production during the payroll periods for which wages were paid in the preceding month. The employee was paid a weekly wage of $64 on each of the five Fridays occurring in January 1954. On February 10, 1954, the employee was paid a bonus of $125 based upon production during the five payroll periods covered by the wages paid in January. On the date of payment of the bonus, the employee, who is married and has three children, has a withholding exemption certificate in effect claiming five withholding exemptions. The amount of the tax to be withheld from the bonus paid on February 10, 1954, is computed as follows:

Wages paid in January 1954 for 5 payroll periods (5×$64)	$320.00
Bonus paid Feb. 10, 1954	125.00
Aggregate of wages and bonus	445.00
Average wage per payroll period ($445÷5)	89.00
Computation of tax under percentage method:	
Withholding exemptions (5×$13)	65.00
Remainder subject to tax	24.00
Tax on average wage for 1 week (18 percent of $24)	4.32
Tax on average wage for 5 weeks	$21.60
Less: Tax previously withheld on weekly wage payments of $64	None
Tax to be withheld on supplemental wages	21.60
Computation of tax under wage bracket method:	
Tax on $89 wage under weekly wage table ($4.50 per week for 5 weeks)	22.50
Less: Tax previously withheld on weekly wage payments of $64 ($0.20 per week for 5 weeks)	1.00
Tax to be withheld on supplemental wages	21.50

(c) *Vacation allowances.* Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the rules applicable with respect to supplemental wage payments shall apply to such vacation allowance.

§ 406.307 *Statutory provisions; income tax collected at source; payroll period of more than one year.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(1) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

* * * * *

(3) With respect to a period beginning in one and ending in another calendar year, or

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the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.308 *Wages paid for payroll period of more than one year.* If wages are paid to an employee for a payroll period of more than one year, for the purpose of determining the amount of tax required to be deducted and withheld in respect of such wages—

(a) Under the percentage method, the amount of the tax shall be determined as if such payroll period constituted an annual payroll period, and

(b) Under the wage bracket method, the amount of the tax shall be determined as if such payroll period constituted a miscellaneous payroll period of 365 days.

§ 406.309 *Statutory provisions; income tax collected at source; wages paid on behalf of two or more employers.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(1) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

* * * * *

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee,

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.310 *Wages paid on behalf of two or more employers.* (a) If a payment of wages is made to an employee by an employer through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee, the amount of the tax required to be withheld on each wage payment made through such agent, fiduciary, or person shall, whether the wages are paid separately on behalf of each employer or paid in a lump sum on behalf of all such employers, be determined upon the aggregate amount of such wage payment or payments in the same manner as if such aggregate amount had been paid by one employer. Hence, under either the percentage method or the wage bracket method the tax shall be determined upon the aggregate amount of the wage payment.

(b) In any such case, each employer shall be liable for the return and payment of a pro rata portion of the tax so determined, such portion to be determined in the ratio which the amount contributed by the particular employer bears to the aggregate of such wages.

(c) For example, three companies maintain a central management agency which carries on the administrative work of the several companies. The central agency organization consists of a staff of clerks, bookkeepers, stenographers, etc., who are the common employees of the three companies. The expenses of the central agency including wages paid to the foregoing employees, are borne by the several companies in certain agreed proportions. Companies X and Y each pay 40 percent and Company Z pays 20 percent. The amount of the tax required to be withheld on the wages paid to persons employed in the central agency should be determined in accordance with the provisions of this section. In such event, Companies X and Y are each liable as employers for the return and payment of 40 percent of the tax required to be withheld and Company Z is liable for the return and payment of 20 percent of the tax. (See § 406.807, relating to acts to be performed by agents.)

§ 406.311 *Statutory provisions; income tax collected at source; average wages.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(j) *Withholding on basis of average wages.* The Commissioner may, under regulations prescribed by him with the approval of the Secretary, authorize employers (1) to estimate the wages which will be paid to any employee in any quarter of the calendar year, (2) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and (3) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

[Sec. 1622 (j), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.312 *Withholding on basis of average wages.* The Commissioner may authorize the employer to withhold the tax under section 1622 on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. Before using such method the employer must receive authorization from the Commissioner. Applications to use such method must be accompanied by evidence establishing the need for the use of such method.

§ 406.313 *Statutory provisions; income tax collected at source; additional withholding.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(k) *Additional withholding.* The Secretary is authorized by regulations to provide, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this section in cases in which the employer and the employee agree (in such form as the Secretary may by regulations prescribe) to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this subchapter.

[Sec. 1622 (k), as added by sec. 203, Revenue Act 1951.]

§ 406.314 *Additional withholding.* (a) In addition to the tax required to be deducted and withheld in accordance with the provisions of section 1622, the employer and employee may agree that an additional amount shall be withheld from the employee's wages. The agreement shall be in writing and shall be in such form as the employer may prescribe. The agreement shall be effective for such period as the employer and employee mutually agree upon. However, unless the agreement provides for an earlier termination, either the employer or the employee, by furnishing a written notice to the other, may terminate the agreement effective with respect to the first payment of wages made on or after the first "status determination date" (January 1 and July 1 of each year) which occurs at least 30 days after the date on which such notice is furnished.

(b) The amount deducted and withheld pursuant to an agreement between the employer and employee shall be considered as tax required to be deducted and withheld under section 1622. All provisions of law and regulations applicable with respect to the tax required to be deducted and withheld under section 1622 shall be applicable with respect to any amount deducted and withheld pursuant to the agreement.

(c) The amount deducted and withheld pursuant to an agreement between the employer and employee, together with the tax required to be deducted and withheld under section 1622, shall be reported on Form W-2 and on Form 941 as Federal income tax withheld from wages.

§ 406.315 *Statutory provisions; income tax collected at source; withholding exemptions.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

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(h) *Withholding exemptions*—(1) *In general.* An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(A) An exemption for himself.

(B) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (B) (i) (relating to old age) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(C) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (C) (i) (relating to the blind) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(D) If the employee is married, any exemption to which his spouse is entitled, or would be entitled if such spouse were an employee receiving wages, under subparagraph (A), (B), or (C), but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption.

(E) An exemption for each individual with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (D) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(2) *Exemption certificates.*

(A) *On commencement of employment.* On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

(B) *Change of status, etc.* If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(C) *Change of status, etc., which affects next calendar year.* If on any day during the calendar year the number of withhold-

ing exemptions to which the employee will be, or may reasonably be expected to be, entitled at the beginning of his next taxable year under Chapter 1 is different from the number to which the employee is entitled on such day, the employee shall, in such cases and at such times as the Commissioner, with the approval of the Secretary, may by regulations prescribe, furnish the employer with a withholding exemption certificate relating to the number of withholding exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he will be, or may reasonably be expected to be, so entitled.

(3) *When certificate takes effect.*

(A) *First certificate furnished.* A withholding exemption certificate furnished the employer in cases in which no previous such certificate is in effect shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(B) *Furnished to take place of existing certificate.* A withholding exemption certificate furnished the employer in cases in which a previous such certificate is in effect shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least thirty days from the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished; but a certificate furnished pursuant to paragraph (2) (C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished. For the purposes of this subparagraph the term "status determination date" means January 1 and July 1 of each year.

(4) *Period during which certificate remains in effect.* A withholding exemption certificate which takes effect under this subsection shall continue in effect with respect to the employer until another such certificate takes effect under this subsection.

(5) *Contents of certificate.* Withholding exemption certificates shall be in such form and contain such information as the Commissioner may, with the approval of the Secretary, by regulations prescribe.

[Sec. 1622 (h), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 137, Revenue Act 1943; sec. 22 (d) and (f), Individual Income Tax Act 1944; sec. 104 (c), Revenue Act 1945; sec. 202 (b) (1), Revenue Act 1948.]

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SEC. 1626. PENALTIES.

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(d) *Penalties in respect of withholding exemption certificates.* Any individual required to supply information to his employer under section 1622 (h) who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 1622, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned for not more than one year, or both.

[Sec. 1626 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

* * * * *

(b) *Credits for both normal tax and surtax*—(1) *Credits.* There shall be allowed for the purposes of both the normal tax and the surtax, the following credits against net income:

(A) An exemption of $600 for the taxpayer; and an additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(B) (i) An additional exemption of $600 for the taxpayer if he has attained the age of 65 before the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(C) (i) An additional exemption of $600 for the taxpayer if he is blind at the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this clause the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death;

(iii) For the purposes of this subparagraph an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(D) An exemption of $600 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $600, except that the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse under section 51 for the taxable year beginning in such calendar year.

(2) *Determination of status.* For the purposes of this subsection—

(A) The determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(3) *Definition of dependent.* As used in this chapter the term "dependent" means any of the following persons over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

(A) A son or daughter of the taxpayer, or a descendant of either,

(B) A stepson or stepdaughter of the taxpayer,

(C) A brother, sister, stepbrother, or stepsister of the taxpayer,

(D) The father or mother of the taxpayer, or an ancestor of either,

(E) A stepfather or stepmother of the taxpayer,

(F) A son or daughter of a brother or sister of the taxpayer,

(G) A brother or sister of the father or mother of the taxpayer,

(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

As used in this paragraph, the terms "brother" and "sister" include a brother or sister by the half-blood. For the purposes of determining whether any of the foregoing relationships exist (1) a legally adopted child of a person or (2) a child for which petition for adoption was filed by a person in the appropriate court and denied because of mental incapacity of surviving natural parent to agree to such adoption, shall be considered a child of such person by blood. The term "dependent" does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States. A payment to a wife which is includible under section 22 (k) or section 171 in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent.

[Sec. 25 (b), as amended by sec. 6 (a), Revenue Act 1940; secs. 111 (a), 113, Revenue Act 1941; secs. 120 (e) (1), 131 (a) (1) and (b), Revenue Act 1942; sec. 103, Revenue Act 1943; sec. 10 (b), Individual Income Tax Act 1944; sec. 102 (a), Revenue Act 1945; sec. 201, Revenue Act 1948; sec. 310 (a), Revenue Act 1951; sec. 3, Pub. Law 213 (83d Cong.).]

§ 406.316 *Withholding exemptions*—(a) *In general.* (1) An employee receiving wages shall on any day be entitled to withholding exemptions as provided in section 1622 (h) (1). In order to receive the benefit of such exemptions, the employee must file with his employer a withholding exemption certificate as provided in section 1622 (h) (2). See § 406.319.

(2) The number of exemptions to which an employee is entitled on any day depends upon his status as single or married, upon his status as to old age and blindness, upon the number of his dependents, and, if married, upon the number of exemptions claimed by his spouse.

(3) An employee is entitled to one withholding exemption for himself and he may also be entitled to withholding exemptions for old age and blindness.

(b) *Old age or blindness.* If an employee will have attained 65 years before the end of the taxable year he may claim an additional withholding exemption on account of age. If the employee is blind, he may claim an additional withholding exemption for blindness. For the purposes of claiming a withholding exemption for blindness, an individual shall be considered blind only if either his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(c) *Spouse.* (1) A married employee is entitled to one withholding exemption for himself. He is also entitled to one withholding exemption for his spouse, unless his spouse is employed and claims the withholding exemption for herself. Thus, a married couple is entitled to one withholding exemption for each spouse and they each may claim one exemption, but if one spouse does not claim his exemption the other spouse may claim it. If the employee's spouse will have attained 65 years before the end of such employee's taxable year and such spouse has no withholding exemption certificate in effect claiming such exemption, the employee may also claim an additional withholding exemption on account of the

age of his spouse. If the employee's spouse is blind and has no withholding exemption certificate in effect claiming such exemption, the employee may also claim an additional withholding exemption for the blindness of his spouse. If both husband and wife are employees receiving wages subject to withholding and the wife is over the age of 65 and has in effect a withholding exemption certificate claiming only one exemption, then the husband may claim one exemption for her on his certificate.

(2) For the purpose of determining the number of withholding exemptions to which an employee is entitled for himself and his spouse on any day, the employee's status as a single person or a married person and, if married, whether a withholding exemption is claimed by his spouse shall be determined as of such day, but, in the case of a married person, the withholding exemption claimed by an employee for his spouse or on account of the age or blindness of his spouse may be claimed by the employee for that portion of his taxable year which occurs after his spouse's death.

(d) *Dependent.* (1) Subject to the limitations stated in this paragraph, an employee shall also be entitled on any day to a withholding exemption for each individual who may be reasonably expected to be his dependent for the taxable year beginning in the calendar year in which such day falls. For the purposes of the withholding exemption for an individual who may be reasonably expected to be a dependent, the following rules shall apply:

(i) The determination that an individual may or may not be reasonably expected to be a dependent shall be made on the basis of facts existing at the beginning of the day for which a withholding exemption for such individual is to be claimed. The individual in respect of whom an exemption is claimed must be in existence and bear the required relationship to the employee on the day in question.

(ii) The determination that an individual may or may not be reasonably expected to be a dependent shall be made for the taxable year of the employee under chapter 1 of the Internal Revenue Code in respect of which amounts deducted and withheld in the calendar year in which the day in question falls are allowed as a credit. In general, amounts deducted and withheld during any calendar year are allowed as a credit against the tax imposed by chapter 1 for the taxable year which begins in, or with, such calendar year. For example, in order for an employee to be able to claim for a calendar year a withholding exemption with respect to a particular individual (other than the employee's spouse) there must be a reasonable expectation that the employee will be allowed an exemption with respect to such individual under section 25 (b) for his income tax taxable year.

(iii) For the employee to be entitled on any day of the calendar year to a withholding exemption for an individual as a dependent, such individual must on such day be reasonably expected to receive less than $600 of gross income for such calendar year, receive over half of his support from the employee during such calendar year, and be related to the employee in one of the relationships specified in section 25 (b) (3)

(2) If an employee undertakes the support of an individual before July 1 of any calendar year and intends to support such individual for the rest of such year, it will be considered reasonable for such employee to claim for the purposes of the withholding exemption that he expects to furnish more than half the support of such individual for such calendar year.

(3) If a dependent of an employee dies during the calendar year, the withholding exemption for the dependent continues for that portion of the employee's taxable year which follows the dependent's death.

(4) An employee is not entitled to claim a withholding exemption for an individual otherwise reasonably expected to be a dependent of the employee if such individual is a citizen of a foreign country, unless such individual is at any time during the calendar year a resident of the United States, Canada, or Mexico.

§ 406.317 *Statutory provisions; definitions; number of withholding exemptions claimed.*

SEC. 1621. DEFINITIONS.
As used in this subchapter—

* * * * *

(e) *Number of withholding exemptions claimed.* The term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 1622 (h), except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

[Sec. 1621 (e), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (a), Individual Income Tax Act 1944.]

§ 406.318 *Number of withholding exemptions claimed.* (a) The term "number of withholding exemptions claimed" is defined in section 1621 (e) The number of withholding exemptions claimed must be taken into account in determining the amount of tax to be deducted and withheld under section 1622, whether the employer computes the tax in accordance with the provisions of subsection (a) or subsection (c) of section 1622.

(b) The employer is not required to ascertain whether or not the number of withholding exemptions claimed is greater than the number of withholding exemptions to which the employee is entitled. If, however, the employer has reason to believe that the number of withholding exemptions claimed by an employee is greater than the number to which such employee is entitled, the district director should be so advised.

(c) As to the number of withholding exemptions to which an employee is entitled, see § 406.316.

§ 406.319 *Withholding exemption certificates*—(a) *In general.* Every employee receiving wages shall furnish his employer a signed withholding exemption certificate on Form W-4, relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled. A withholding exemption certificate shall be furnished the employer by such employee on or before the date of the commencement of employment with the employer. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as claiming no withholding exemptions. Forms of certificate (Form W-4) will be supplied employers upon request to the district director. In lieu of the prescribed form of certificate, employers may prepare and use a form the provisions of which are identical with the prescribed form. The certificate must be retained by the employer as a supporting record of the withholding exemption claimed. Section 1622 (h) (2) (B) provides for the filing of a new withholding exemption certificate when any change occurs which affects the number of withholding exemptions to which an employee is entitled.

(b) *Change in exemptions.* (1) If, on any day during the calendar year, the number of withholding exemptions of an employee is more than the number of withholding exemptions claimed on the withholding exemption certificate then in effect, the employee may furnish the employer with a new withholding exemption certificate on which the employee must in no event claim more than the number of withholding exemptions to which he is entitled on such day.

(2) If, however, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed on the withholding exemption certificate then in effect, the employee must within 10 days after the change occurs furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which must in no event exceed the number to which he is entitled on such day. The number of withholding exemptions to which an employee is entitled decreases for any of the following reasons:

(i) The employee's wife (or husband) for whom the employee has been claiming a withholding exemption, is divorced or legally separated from the employee, or claims her (or his) own withholding exemption on a separate certificate.

(ii) The support of an individual for whom the employee has been claiming a withholding exemption is taken over by someone else, so that it can no longer be reasonably expected that the employee will furnish over half of the support of such individual for the particular calendar year.

(iii) The employee finds that an individual claimed as a dependent on a withholding exemption certificate will receive $600 or more of gross income of his or her own during the current calendar year.

(c) *Change in exemptions which affects next taxable year* (1) If on any day during the calendar year the number of exemptions to which the employee will be, or may be reasonably expected to be, entitled at the beginning of his next

taxable year under chapter 1 of the Internal Revenue Code is different from the number to which the employee is entitled on such day, the following rules shall be applicable:

(i) If such number is greater than the number of withholding exemptions claimed in a withholding exemption certificate in effect on such day, the employee may, on or before December 1 of the year in which such change occurs, unless such change occurs in December, furnish his employer with a new withholding exemption certificate reflecting the increase in the number of withholding exemptions. If the change occurs in December, the certificate may be furnished on or after the date on which the change occurs.

(ii) If such number is less than the number of withholding exemptions claimed in a withholding exemption certificate in effect on such day, the employee must, on or before December 1 of the year in which the change occurs, unless such change occurs in December, furnish his employer with a new withholding exemption certificate reflecting the decrease in the number of withholding exemptions. If the change occurs in December, the new certificate must be furnished within 10 days of the date on which the change occurs.

(2) Before December 1 of each year, every employer should request his employees to file new withholding exemption certificates for the ensuing year, in the event of change in their exemption status since the filing of their latest certificates. The number of exemptions to which an employee is entitled at the beginning of the next taxable year under chapter 1 of the Code decreases, for example, for any of the following reasons:

(i) The spouse or a dependent of the employee dies.

(ii) The employee ceases late in the year to support an individual so that it is not reasonable to expect that more than half of the individual's support will be received from the employee during the ensuing year.

(iii) A dependent of the employee begins to receive income late in the year so that it is reasonable to expect that the dependent will have a gross income of $600 or more for the ensuing year.

(d) *Penalties.* Section 1626 (d) provides criminal penalties applicable with respect to individuals who are required under section 1622 (h) to furnish to their employers information relating to the number of withholding exemptions claimed. The penalties are imposed upon any such individual (1) who willfully supplies false or fraudulent information, or (2) who willfully fails to supply information which would increase the tax required to be withheld at the source on his wages. The penalty in each instance is a fine of not more than $500 or imprisonment for not more than one year, or both. Such penalties are in lieu of any penalties otherwise provided by law for failure to furnish the information required by section 1622 (h) or for the furnishing of false or fraudulent information under such section.

§ 406.320 *When withholding exemption certificates effective.* (a) A withholding exemption certificate furnished the employer in any case in which no previous withholding exemption certificate is in effect with such employer, shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(b) A withholding exemption certificate furnished the employer in any case in which a previous withholding exemption certificate is in effect with such employer shall, except as hereinafter provided, take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days from the date on which such certificate is so furnished. However, at the election of the employer, except as hereinafter provided, such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished.

(c) A withholding exemption certificate furnished the employer pursuant to section 1622 (h) (2) (C) which effects a change for the next year, shall not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished.

(d) For the purposes of this section the term "status determination date" means January 1 and July 1 of each year.

(e) A withholding exemption certificate which takes effect under section 1622 (h) shall continue in effect with respect to the employee until another withholding exemption certificate takes effect under such section.

SUBPART D—LIABILITY FOR TAX

§ 406.400 *Statutory provisions; liability for tax.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

(a) *Requirement of withholding.* Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to 18 per centum of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b) (1) * * *

* * * * *

(d) *Tax paid by recipient.* If the employer, in violation of the provisions of this subchapter, fails to deduct and withhold the tax under this subchapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

[Sec. 1622 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a) (1), Revenue Act 1945; sec. 501, Revenue Act 1948; sec. 141, Revenue Act 1950; sec. 201, Revenue Act 1951; and sec. 1622 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 1623. LIABILITY FOR TAX.

The employer shall be liable for the payment of the tax required to be deducted and withheld under this subchapter, and shall not be liable to any person for the amount of any such payment.

[Sec. 1623, as added by sec. 2 (a), Current Tax Payment Act 1943.]

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.

§ 406.401 *Liability for tax.* (a) The employer is required to collect the tax by deducting and withholding the amount thereof from the employee's wages as and when paid, either actually or constructively. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case, the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his control and disposition.

(b) An employer is required to deduct and withhold the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stocks or bonds; see § 406.207 (a)) and to pay the tax to the district director or duly designated depositary of the United States, as the case may be, in money. If wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the district director in money.

(c) Every person required to deduct and withhold the tax under section 1622 from the wages of an employee is liable for the payment of such tax whether or not it is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. However, if the employer in violation of the provisions of section 1622 fails to deduct and withhold the tax, and thereafter the income tax against which the tax under section 1622 may be credited is paid, the tax under section 1622 shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties or additions to the tax for failure to deduct and withhold within the time prescribed by law or regulations made in pursuance of law. The employer will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under section 1622 may be credited has been paid.

(d) The amount of any tax withheld and collected by the employer is a special fund in trust for the United States.

(e) The employer or other person required to deduct and withhold the tax under section 1622 is relieved of liability to any other person for the amount of any such tax withheld and paid to the district director or deposited with a duly designated depositary of the United States.

(f) Section 2707 provides severe penalties for a willful failure to pay, collect, or truthfully account for and pay over, the tax imposed by section 1622, or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(g) As a matter of business administration, certain of the mechanical details of the withholding process may be handled by representatives of the employer. Thus, in the case of a corporate employer having branch offices, the branch manager or other representative may actually as a matter of internal administration, withhold the tax or prepare the statements required under section 1633. Nevertheless, the legal responsibility for withholding, paying, and returning the tax and furnishing such statements rests with the corporate employer.

§ 406.402 *Statutory provisions; nondeductibility of tax in computing net income.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(e) *Nondeductibility of tax in computing net income.* The tax deducted and withheld under this subchapter shall not be allowed as a deduction either to the employer or to the recipient of the income in computing net income for the purpose of any tax on income imposed by Act of Congress.

[Sec. 1622 (e), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.403 *Nondeductibility of tax.* The tax deducted and withheld at the source upon wages shall not be allowed as a deduction either to the employer or the recipient of the income in computing net income under chapter 1 of the Internal Revenue Code. The entire amount of the wages from which the tax is withheld shall be included in gross income in the return required to be made by the recipient of the income without deductions for such tax. The tax withheld at source, however, is allowable as a credit against the tax imposed by chapter 1 of the Internal Revenue Code upon the recipient of the income. See § 406.705.

SUBPART E—RECEIPTS

§ 406.500 *Statutory provisions; receipts for employees.*

SEC. 1633. RECEIPTS FOR EMPLOYEES.

(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 1400 or 1622, or who would have been required to deduct and withhold a tax under section 1622 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following: (1) the name of such person, (2) the name of the employee (and his social security account number if wages as defined in section 1426 (a) have been paid), (3) the total amount of wages as defined in section 1621 (a) (4) the total amount deducted and withheld as tax under section 1622, (5) the total amount of wages as defined in section 1426 (a), and (6) the total amount deducted and withheld as tax under section 1400. In the case of compensation paid for service as a member of the armed forces, the statement shall show, as wages paid during the calendar year, the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 1621 (a)); such statement to be furnished if any tax was withheld during the calendar year or if any of the compensation paid is includible under chapter 1 in gross income.

(b) *Statements to constitute information returns.* The statements required to be furnished by this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe. A duplicate of any such statement if made and filed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary shall constitute the return required to be made in respect of such remuneration under section 147.

(c) *Extension of time.* The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any person a reasonable extension of time (not in excess of thirty days) with respect to the statements required to be furnished under this section.

[Sec. 1633, as added by sec. 206 (a), Social Security Act Amendments 1950, and as amended by sec. 202 (c), Revenue Act 1950.]

SEC. 1634. PENALTIES.

(a) *Penalties for fraudulent statement or failure to furnish statement.* In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof, be fined not more than penalty provided by subsection (a) of this $1,000, or imprisoned for not more than one year, or both.

(b) *Additional penalty.* In addition to the section, any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of $50. Such penalty shall be assessed and collected in the same manner as the tax imposed by section 1410.

[Sec. 1634, as added by sec. 206 (a), Social Security Act Amendments 1950.]

§ 406.501 *Receipts for employees*—(a) *Requirement.* (1) Every person required to deduct and withhold from an employee a tax under section 1622, or who would have been required to deduct and withhold a tax under section 1622 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee, in respect of the remuneration paid by such person to such employee during the calendar year, the tax return copy and the employee's copy of a statement on Form W-2 showing the following: (i) The name and address of such person, (ii) the name and address of the employee, and, if wages as defined in section 1426 (a) have been paid, his social security account number, (iii) the total amount of wages as defined in section 1621 (a), (iv) the total amount deducted and withheld as tax under section 1622, (v) the total amount of wages as defined in section 1426 (a) and (vi) the total amount of employee tax under section 1400 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year)

(2) For example, if the wage bracket method of withholding is used, a withholding statement must be furnished each employee whose wages during any payroll period are equal to or in excess of the smallest wage for which tax must be withheld from employees claiming one exemption. If the percentage method is used, a withholding statement must be furnished each employee whose wages during any payroll period are in excess of one withholding exemption for such payroll period as shown in the percentage method withholding table contained in section 1622 (b) (1)

(3) If (i) the amount of employee tax under section 1400 deducted and withheld in the calendar year from the wages as defined in section 1426 (a) paid during such year was less or greater than the tax imposed by section 1400 on such wages by reason of the adjustment in such year of an overcollection or undercollection of the tax in any prior year, or (ii) regardless of the reason for the error or the method of its correction, the amount of wages as defined in section 1426 (a) or tax under section 1400 entered on a statement furnished to the employee for a prior year was incorrect, a corrected statement for such prior year reflecting the adjustment or the correct data shall be furnished to the employee.

(4) Likewise, a corrected statement on Form W-2 shall be furnished the employee with respect to a prior calendar year (i) to show the correct amount of wages (as defined in section 1621 (a)) paid during the prior calendar year if the amount of such wages entered on a statement furnished to the employee for such prior year is incorrect or (ii) to show the amount actually deducted and withheld as tax under section 1622 if such amount is less or greater than the amount entered as tax withheld on the statement furnished the employee for such prior year.

(5) The statement on Form W-2 for the calendar year and the corrected statement for any prior year shall be furnished to the employee on or before

January 31 of the year succeeding such calendar year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made. See paragraph (c) of this section for extension of time for furnishing statements.

(6) See the applicable regulations under the Federal Insurance Contributions Act for the requirement as to the furnishing of a statement in cases where such statement is required solely by reason of the tax under section 1400 of such Act. Also see such regulations with respect to adjustments of that tax.

(b) *Receipts for members of the Armed Forces of the United States.* Section 1633 (a) contains certain special provisions which are applicable in the case of members of the Armed Forces of the United States in active service. In such case, Form W-2 shall be furnished to each such member of the Armed Forces of the United States if any tax has been withheld during the calendar year from the remuneration of such member or if any of the remuneration paid during the calendar year for such active service is includible under chapter 1 in the gross income of such member. Form W-2, in the case of such member, shall show, as wages paid during the calendar year, the amount of the remuneration paid during the calendar year which is not excludable under chapter 1 from the gross income of such member, whether or not such remuneration constitutes wages as defined in section 1621 (a) and whether or not paid for such active service.

(c) *Extension of time for furnishing receipts to employees*—(1) *In general.* For good cause shown upon application by the employer, the district director of internal revenue may grant an extension of time within which to furnish the written statement provided for in paragraph (a) of this section.

(2) *Upon termination of employment.* An extension of time, not exceeding 30 days, within which to furnish the written statement provided for in paragraph (a) of this section upon termination of employment is hereby granted to any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a written statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from that time.

(d) *Undelivered Forms W-2.* The tax return copy and the employee's copy of each withholding statement on Form W-2 for the calendar year which the employer is required to furnish to the employee and which after reasonable effort he is unable to deliver to the employee shall be transmitted to the district director with the return on Form 941 filed by the employer for the first calendar quarter of the next succeeding calendar year or with the employer's final return if filed at an earlier date. Thus, the undelivered copies of Forms W-2 ordinarily will be transmitted to the district director on or before April 30th or May 10th of the year following that for which they were issued, depending upon when the return for the first calendar quarter of such year is required to be filed. In the case of an employer having branch offices, the undelivered copies of Forms W-2 held in such branch offices may be transmitted by the employer with his return or, at the option of the employer, may be transmitted by the branch office directly to the district director for the internal revenue district in which the branch office is located. Such direct transmittal by branch offices shall be made at the time prescribed for the filing of the employer's return for the first quarter of the calendar year following that for which the Forms W-2 were issued or at the time of the filing of the employer's final return if filed at an earlier date. The provisions of this paragraph are also applicable with respect to any corrected statements issued for a prior calendar year.

(e) *Form 1099 information returns.* The making of an information return on Form 1099 will not be required with respect to any wages reported on Form W-2, provided the district director's copies of the Forms W-2 are transmitted with the returns on Form 941, as provided in § 406.601.

(f) *Penalties for fraudulent receipt or failure to furnish receipt.* Section 1634 imposes criminal and civil penalties for the willful failure to furnish a statement in the manner, at the time, and showing the information required under section 1633 or regulations prescribed thereunder or for willfully furnishing a false or fraudulent statement. For each such violation, the criminal penalty is a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the civil penalty is a fine of $50. The civil penalty shall be assessed and collected in the same manner as the tax imposed by section 1410. These penalties are in lieu of any other penalties provided by law respecting the failure to furnish a statement or the furnishing of a false or fraudulent statement.

SUBPART F—RETURNS, PAYMENT OF TAX, AND RECORDS

§ 406.600 *Statutory provisions; returns; payment of tax; and records.*

SEC. 1420. COLLECTION AND PAYMENT OF TAXES.

(a) *Administration.* The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue [Internal Revenue Service] under the direction of the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

* * * * *

(c) *Method of collection and payment.* Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this subchapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner, with the approval of the Secretary.

(d) *Fractional parts of a cent.* In the payment of any tax under this subchapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

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SEC. 1624. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

If the employer is the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

[Sec. 1624, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 3310. RETURNS AND PAYMENT OF TAX.

* * * * *

(f) *Discretion allowed Commissioner*—(1) *Returns and payment of tax.* Notwithstanding any other provision of law relating to the filing of returns or payment of any tax imposed by chapter 9 * * * the Commissioner may by regulations approved by the Secretary prescribe the period for which the return for such tax shall be filed, the time for the filing of such return, the time for the payment of such tax, and the number of copies of the return required to be filed.

(2) *Use of Government depositaries.* The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this title, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the collector [district director].

[Sec. 3310 (f), as added by sec. 7 (a), Pub. Law 271 (81st Cong.), and as amended by sec. 471 (b), Revenue Act 1951.]

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1430. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter.

[Sec. 1430, as amended by sec. 903, Social Security Act Amendments 1939.]

SEC. 2709. RECORDS, STATEMENTS, AND RETURNS.

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

SEC. 2701. RETURNS.

Every person liable for the tax * * * shall make * * * returns under oath * * * to the collector [district director] for the district in which is located the prin-

cipal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 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. 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 [district director], * * * internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.* Every collector [district director] 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. 3809. VERIFICATION OF RETURNS; PENALTIES OF PERJURY.

(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

[Sec. 3809, as added by sec. 4 (a), Pub. Law 271 (81st Cong.).]

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

(a) *Authority of collector [district director].* If any person fails to make and file a return or list at the time prescribed by law or by regulations made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector [district director] or deputy collector [collection officer] 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 [district director's] return.* Amend any return made by a collector [district director] or deputy collector [collection officer].

(c) *Legal status of returns.* Any return or list so made, and subscribed by the Commissioner, or by a collector [district director] or deputy collector [collection officer] and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

* * * * *

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue [Internal Revenue Service], 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.

* * * * *

SEC. 2702. PAYMENT OF TAX.

(a) *Date of payment.* The tax shall, without assessment by the Commissioner or notice from the collector [district director], be due and payable to the collector [district director] for the district in which is located the principal place of business, at the time fixed * * * for filing the return.

* * * * *

§ 406.601 *Returns*—(a) *Requirement.* Every person shall make a return for the first calendar quarter after December 31, 1953, within which he is required under section 1622 to deduct and withhold the tax on wages, and for each subsequent quarter (whether or not wages are paid therein) until a final return is filed as required by § 406.602. Every person required to make a return for the calendar quarter ended December 31, 1953, shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until a final return is filed as required by § 406.602. Form 941 is the form prescribed for making a return of the tax required under section 1622 to be deducted and withheld from wages.

(b) *District director's copies of Forms W-2.* (1) The district director's copy of each withholding statement on Form W-2 required to be furnished by the employer with respect to wages paid during the calendar year (as well as such copy of each corrected statement for a prior year) shall be included with the return filed for the fourth quarter of the calendar year or with the employer's final return if filed at an earlier date.

(2) The copies of withholding statements for the current calendar year transmitted with the return shall be accompanied by a list (preferably in the form of an adding machine tape) of the amounts of income tax withheld shown on such forms. If an employer's total payroll is made up on the basis of a number of separate units or establishments, the forms may be assembled accordingly and a separate list or tape submitted for each unit. In such case, a summary list or tape should be submitted, the total of which will agree with the corresponding entry to be made on Form 941. Where the number of forms is large, they may be forwarded in packages of convenient size. When this is done, the packages should be identified with the name of the employer and consecutively numbered. The number of packages should be indicated at the top of Form 941. The tax return, Form 941, and remittance in cases of this kind should be filed in the usual manner, accompanied by a brief statement that the district director's copies of Forms W-2 are in separate packages.

(3) The district director's copies of corrected Forms W-2 for a prior calendar year shall be assembled separately from the forms for the current calendar year and shall be accompanied by a statement explaining the corrections.

(c) *Period covered by return.* Except in the case of quarterly adjustments, as explained in § 406.701, the return on Form 941 may not be made for more than one calendar quarter of the year, nor may a portion of one calendar quarter be included with a portion of another calendar quarter in a single return on Form 941 even though the entire period does not exceed three months.

§ 406.602 *Final returns.* (a) The last return on Form 941 for any employer required to deduct and withhold any tax under section 1622 who ceases to pay wages shall be marked "Final return" by such employer or the person filing the return. Such final return shall be filed with the district director on or before the thirtieth day after the date on which the final payment of wages is made for services performed for such employer, and shall plainly show the period covered by the return and the date of the last payment of wages. An employer required to make a return on Form 941, who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no tax is required to be reported the date of the last payment of wages and the date when he expects to resume paying wages. If an employer ceases to pay wages as defined in section 1621 (a) but continues to pay wages as defined in section 1426 (a), no final return on Form 941 should be filed so long as he continues to pay such wages. However, if an employer who has been paying remuneration which constitutes wages as defined in each of such sections permanently ceases to pay such wages, a final return is required of such employer.

(b) There shall be executed as a part of each final return on Form 941 a statement giving the address at which the records required by § 406.607 will be kept,

the name of the person keeping such records, and, if the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which the sale or other transfer took effect. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

§ 406.603 *Execution of returns*—(a) *Requirement.* Each return shall be signed by the employer or other person required to deduct and withhold the tax and shall contain or be verified by a written declaration that it is made under the penalties of perjury. The return shall be signed and verified by (1) the individual, if the employer is an individual; (2) the president, vice-president, or other principal officer, if the employer is a corporation; (3) a responsible and duly authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization; or (4) the fiduciary, if the employer is a trust or estate. The employer's return may be executed by an agent in the name of the employer if an acceptable power of attorney is filed with the district director and if such return includes the wages paid to all employees of the employer for the period covered by the return. If the United States, a State, Territory, Puerto Rico, or political subdivision, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, is the employer, the return may be made by the officer or employee having control of the payment of wages or other officer or employee appropriately designated for that purpose.

(b) *Penalties of perjury.* Section 3809 (a) provides that any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony. The punishment for such offense, upon conviction thereof, is a fine of not more than $2,000 or imprisonment for not more than five years, or both.

§ 406.604 *Use of prescribed forms.* (a) Copies of the prescribed return forms will so far as possible be regularly furnished employers by district directors without application therefor. An employer will not be excused from making a return, however, by the fact that no return form has been furnished to him. Employers not supplied with the proper forms should make application therefor to the district director in ample time to have their returns prepared, verified, and filed with the district director on or before the due date. (See § 406.605, relating to the place and time for filing returns; see also § 406.602, relating to final returns.) If the prescribed form is not available, a statement made by the employer disclosing the amount of tax due may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the employer from liability for the addition to tax imposed for the delinquent filing of the return (see § 406.810, relating to the addition to tax) provided that without unnecessary delay such tentative return is supplemented by a return made on the proper form.

(b) Each return, together with a copy thereof and any supporting data, shall be filled in and disposed of in accordance with the instructions and regulations applicable thereto. (See § 406.605, relating to the place and time for filing returns, and § 406.607 (c) and (e) relating to copies of returns, schedules, and statements, and to the place and period for keeping records.) The return shall be carefully prepared so as fully and accurately to set forth the data therein called for. Returns which have not been so prepared will not be accepted as meeting the requirements of the statute. Only one return on any one prescribed form for a tax-return period shall be filed by or for an employer.

§ 406.605 *Place and time for filing returns.* Each return on Form 941 shall be filed with the district director for the district in which is located the principal place of business of the employer, or, if the employer has no principal place of business in an internal revenue district of the United States, with the district director at Baltimore, Md. Except as provided in § 406.602, relating to final returns, each return shall be filed on or before the last day of the first month following the period for which it is made. However, if, and only if, the return is accompanied by depositary receipts, Form 450, showing timely deposits, in full payment of the taxes due for the entire calendar quarter, the return may be filed on or before the 10th day of the second month following the period for which it is made. For the purpose of the preceding sentence, the timeliness of the deposit will be determined by the date of the endorsement by a designated commercial bank or by a Federal Reserve bank made on the reverse side of Form 450. Deposit of the taxes for the last month of the calendar quarter with a designated commercial bank or a Federal Reserve bank, as the case may be, may be made on or before the last day of the first month following the close of such quarter. If the last day for filing any return falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the district director's office, under ordinary handling of the mails, on or before the due date. As to additions to tax for failure to file the return within the prescribed time, see § 406.810. See also section 2707, relating to penalties.

§ 406.606 *Payment of tax*—(a) *In general.* The tax required to be reported on each return on Form 941 is due and payable to the district director, without assessment by the Commissioner or notice by the district director, at the time fixed for filing such return. For provisions relating to interest, additions to tax, and penalties, see §§ 406.809, 406.810, and 406.812 and section 2707.

(b) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of taxes*—(1) *Requirement.* Except as provided in subparagraph (2) of this paragraph, if during any calendar month the aggregate amount of—

(i) The employee tax withheld under section 1401,

(ii) The employer tax for such month under section 1410, and

(iii) The income tax withheld at source on wages under section 1622,

exclusive of taxes under sections 1401 and 1410 with respect to wages of household employees, exceeds $100 in the case of an employer, it will be the duty of such employer to deposit such amount within 15 days after the close of such calendar month with a Federal Reserve bank. The remittance of such amount shall be accompanied by a Federal Depositary Receipt (Form 450). Such depositary receipt shall be prepared in accordance with the instructions and regulations applicable thereto. The employer, at his election, may forward such remittance, together with such depositary receipt, to a commercial bank authorized in accordance with Treasury Department Circular No. 848 to accept remittances of the aforementioned taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this paragraph shall attach to his return for the calendar quarter with respect to which such deposits are made, in part or full payment of the taxes shown thereon, depositary receipts so validated, and shall pay to the district director the balance, if any, of the taxes due for such quarter.

(2) *Payments for last month of the calendar quarter.* With respect to the taxes specified in subparagraph (1) of this paragraph for the last month of the calendar quarter, the employer may either include with his return direct remittance to the district director for the amount of such taxes or attach to such return a depositary receipt validated by a Federal Reserve bank as provided in subparagraph (1) of this paragraph. Payment of the taxes required to be reported on each return, in the form of validated depositary receipts or direct remittances, shall be made to the district director at the time fixed for filing such return. If a deposit is made for the last month of the quarter, the employer shall make it in ample time (whether before, on, or after the 15th day of the succeeding month) to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return at the time so fixed.

(3) *Procurement of prescribed form.* Initially, Form 450, Federal Depositary Receipt, will so far as possible be furnished the employer by the district director. An employer not supplied with the proper form should make application therefor to the district director in ample time to have such form available for use in making his initial deposit within the

time prescribed in subparagraph (1) of this paragraph. Thereafter a blank form will be sent to the employer by the Federal Reserve bank when returning the validated depositary receipt. An employer may secure additional forms from a Federal Reserve bank by applying therefor and advising the bank of his identification number. (See § 406.201 (f).) The district director will assign an identification number to each employer who is not required either to withhold the employee tax under section 1401 or to pay the employer tax under section 1410. Every employer making deposits pursuant to this paragraph shall make such use of his identification number as is prescribed by this paragraph and by the instructions relating to Form 941 and to Form 450. The employer's identification number and name, on each depositary receipt, should be the same as they are required to be shown on the return to be filed with the district director. The address of the employer, as shown on each depositary receipt, should be the address to which the receipt should be returned following validation by the Federal Reserve bank.

§ 406.607 *Records*—(a) *Records of employers.* (1) Every employer required to deduct and withhold the tax shall keep accurate records of all remuneration paid to his employees. Such records shall show with respect to each employee—

(i) The name and address of the employee;

(ii) To the extent material to the determination of tax liability, the dates on which the employee worked during each calendar quarter, including the days for which remuneration is paid or payable, and the character of the services performed;

(iii) The total amount (including any sum withheld therefrom as tax or for any other reason) and date of each remuneration payment, and the period of services covered by such payment;

(iv) The amount of each remuneration payment which constitutes wages subject to withholding;

(v) The amount of tax withheld or collected with respect to each remuneration payment and, if collected at a time other than the time such payment was made, the date collected;

(vi) The withholding exemption certificates (Form W-4) filed with the employer by the employee;

(vii) The agreements, if any, between the employer and the employee for the withholding of additional amounts of tax pursuant to § 406.314;

(viii) Copies of any statements furnished by the employee pursuant to § 406.224 (c) (relating to nonresident alien individuals who are residents of a contiguous country)

(ix) Copies of any statements furnished by the employee pursuant to § 406.226 (a) (relating to residence or physical presence in a foreign country) and

(x) Copies of any statements furnished by the employee pursuant to § 406.226 (c) (relating to citizens resident in Puerto Rico)

The term "remuneration" as used in this paragraph (a) includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business. If the total remuneration payment (subdivision (iii) of subparagraph (1)) and the amount thereof which is taxable (subdivision (iv) of subparagraph (1)) are not equal, the reason therefor shall be made a matter of record.

(2) Accurate records of the details of each adjustment or settlement made pursuant to § 406.701 shall also be kept.

(3) No particular form is prescribed for keeping the records required by this paragraph (a) Each employer shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which the employer is liable are correctly computed and paid.

(b) *Records of employees.* While not mandatory, it is advisable for each employee to keep permanent, accurate records showing the name and address of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, the information with respect to himself which is required by paragraph (a) of this section to be kept by employers, and the receipts furnished in accordance with the provisions of § 406.501. (See, however, paragraph (d) of this section, relating to records of claimants.)

(c) *Copies of returns, schedules, and statements.* Every employer who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as part of his records.

(d) *Records of claimants.* Any person (including an employee) claiming refund, credit, or abatement of any tax, penalty, or interest shall keep a complete and detailed record with respect to such tax, penalty, or interest.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. If the employer has a principal place of business in the United States, the records required by paragraphs (c) and (d) of this section shall be kept at such place of business.

(2) Records required by paragraphs (a) and (c) of this section shall be maintained for a period of at least four years after the date the tax to which they relate becomes due, or the date the tax is paid, whichever is the later. Records required by paragraph (d) of this section (including any record required by paragraph (a) or (c) which relates to a claim) shall be maintained for a period of at least four years after the date the claim is filed.

SUBPART G—ADJUSTMENTS, REFUNDS, CREDITS, AND ABATEMENTS

§ 406.700 *Statutory provisions; adjustments.*

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1401. DEDUCTION OF TAX FROM WAGES.

* * * * *

(c) *Adjustments.* If more or less than the correct amount of tax imposed by section 1400 is paid with respect to any payment of remuneration, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as may be prescribed by regulations made under this subchapter.

[Sec. 1401 (c), as amended by sec. 602 (a), Social Security Act Amendments 1939.]

* * * * *

§ 406.701 *Quarterly adjustments*—(a) *In general.* If, for any quarter of the calendar year, more or less than the correct amount of the tax is withheld, or more or less than the correct amount of the tax is paid to the district director, proper adjustment, without interest, may be made in any subsequent quarter of the same calendar year. No adjustment, however, under the provisions of this section shall be made in respect of an underpayment for any quarter after receipt from the district director of notice and demand for payment thereof based upon an assessment, but the amount shall be paid in accordance with such notice and demand; nor shall any adjustment under the provisions of this section be made in respect of an overpayment for any quarter after the filing of a claim for refund thereof. Every return on which an adjustment for a preceding quarter is reported must have securely attached as a part thereof a statement explaining the adjustment, and designating the quarterly return period in which the error occurred. If an adjustment of an overcollection of tax which the employer has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee.

(b) *Less than correct amount of tax withheld.* (1) If none, or less than the correct amount, of the tax is deducted from any wage payment and the error is ascertained prior to the making of the return on Form 941 for the quarter in which such wages are paid, the employer shall nevertheless report on such return and pay to the district director the correct amount of the tax required to be withheld. If the error is not ascertained until after the making of the return on Form 941 for the quarter in which such wages are paid, the undercollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year, subject, however, to the limitations noted in paragraph (a) of this section. The amount of any undercollection adjusted in accordance

with this paragraph shall be paid to the district director, without interest, at the time prescribed for payment of the tax for the quarter in which such adjustment is made. If an adjustment is made pursuant to this paragraph but the amount thereof is not paid when due, interest thereafter accrues. See section 1420 (b)

(2) If none, or less than the correct amount, of the tax is withheld from any wage payment, the employer may correct the error by deducting the amount of the undercollection from remuneration of the employee, if any, under his control after he ascertains the error. Such deduction may be made even though the remuneration, for any reason, does not constitute wages. The obligation of an employee to the employer with respect to an undercollection of tax from the employee's wages not subsequently corrected by a deduction made as prescribed herein is a matter for settlement between the employee and the employer. In this connection, see section 1622 (d), relieving the employer from liability for the tax if the tax imposed by chapter 1 of the Internal Revenue Code against which the tax withheld at source is allowable as a credit, has been paid by the employee or other person liable therefor.

(c) *More than correct amount of tax withheld.* (1) If, in any quarter, more than the correct amount of tax is deducted from any wage payment, the overcollection may be repaid to the employee in any quarter of the same calendar year. If the amount of the overcollection is repaid, the employer shall obtain and keep as part of his records the written receipt of the employee showing the date and amount of the repayment.

(2) If an overcollection in any quarter is repaid and receipted for by the employee prior to the time the return on Form 941 for such quarter is filed with the district director, the amount of such overcollection shall not be included in the return for such quarter.

(3) Subject to the limitations provided in paragraph (a) if an overcollection in any quarter is repaid and receipted for by the employee after the time the return on Form 941 for such quarter is filed and the tax is paid to the district director, the overcollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year.

(4) Every overcollection not repaid and receipted for by the employee as provided in this paragraph must be reported and paid to the district director with the return on Form 941 for the quarter in which the overcollection is made.

(5) For information as to the manner of correcting errors in withholding which cannot be adjusted in a return for a subsequent quarter of the same calendar year, employers should consult the local district director of internal revenue.

§ 406.702 *Statutory provisions; refunds; credits; and abatements.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(f) *Refunds or credits.*

(1) *Employers.* Where there has been an overpayment of tax under this subchapter, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under this subchapter by the employer.

(2) *Employees.* For refund or credit in cases of excessive withholding, see section 322 (a).

[Sec. 1622 (f), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) *To Taxpayers*—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, 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.

* * * * *

(4) *Credit of overpayment of one class of tax against another class of tax due.* Notwithstanding any provision of law to the contrary, the Commissioner may, in his discretion, in lieu of refunding an overpayment of tax imposed by any provision of this title, credit such overpayment against any tax due from the taxpayer under any other provision of this title.

(5) *Delegation of authority to collectors [district directors] to make refunds.* The Commissioner, with the approval of the Secretary, is authorized to delegate to collectors [district directors] any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), (3), or (4) of this subsection, or under section 322 or 1027, where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000.

* * * * *

[Sec. 3770 (a) (1), as amended by sec. 508 (b), Second Revenue Act 1940; sec. 3770 (a) (4), as added by sec. 9 (a), Pub. Law 271 (81st Cong.); and 3770 (a) (5), added as paragraph (4) by sec. 4 (c), Current Tax Payment Act 1943, and redesignated paragraph (5) and amended by sec. 9 (a), Pub. Law 271 (81st Cong.).]

* * * * *

§ 406.703 *Refund or credit of overpayments which are not adjustable; abatement of overassessments*—(a) *Who may make claims.* If more than the correct amount of tax, penalty, or interest is paid to the district director, the person who paid such tax, penalty, or interest to the district director may file a claim for refund of such overpayment or such person may take credit for the overpayment against the tax reported on any return on Form 941 which he subsequently files. However, refund or credit of the overpayment shall be made only to the extent that the amount of the overpayment exceeds the tax actually withheld, and penalty and interest thereon. If more than the correct amount of tax, penalty, or interest is assessed but not paid to the district director, the person against whom the assessment is made may file a claim for abatement of such overassessment.

(b) *Form of claims.* Each claim for refund or abatement under this section shall be made on Form 843 in accordance with the regulations in this part and the instructions relating to such form, and shall designate the tax-return period in which the error was ascertained. Copies of Form 843 may be obtained from any district director. If credit is taken under this section, a claim on Form 843 is not required, but the return on which such credit is claimed shall have attached as a part thereof a statement which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, designating the tax-return period in which the error was ascertained, and showing such other information as is required by the regulations in this part or by the instructions relating to the return.

(c) *Limitation on claims.* No refund or credit will be allowed after the expiration of the applicable statutory period of limitations, except upon one or more of the grounds set forth in a claim filed prior to the expiration of such period. For provisions relating to the period of limitation upon refunds and credits, see § 406.707.

(d) *Claims improperly made.* Any claim which does not comply with the requirements of this section will not be considered for any purpose as a claim for refund, credit, or abatement.

(e) *Proof of representative capacity.* If a return is made by an individual who thereafter dies and a refund claim is made by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is made. If an executor, administrator, guardian, trustee, receiver, or other fiduciary makes a return and thereafter a refund claim is made by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was made by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is made by a fiduciary other than the one by whom the return was made, the necessary documentary evidence should accompany the claim. The claim may be executed by the agent of the person assessed, but in such case a power of attorney must accompany the claim.

§ 406.704 *Statutory provisions; credit for tax withheld.*

SEC. 35. CREDIT FOR TAX WITHHELD ON WAGES.

The amount deducted and withheld as tax under Subchapter D of Chapter 9 during any calendar year upon the wages of any individual shall be allowed as a credit to the recipient of the income against the tax imposed by this chapter for the taxable year beginning in such calendar year. If more than one taxable year begins in any such calendar year such amount shall be allowed as a credit against the tax for the last taxable year so beginning.

[Sec. 35, as added by sec. 172 (f) (2), Revenue Act 1942, and as amended by sec. 3, Current Tax Payment Act 1943.]

SEC. 322. REFUNDS AND CREDITS.

(a) *Authorization.*

* * * * *

(2) *Excessive withholding.* Where the amount of the tax withheld at the source under Subchapter D of Chapter 9 exceeds the taxes imposed by this chapter against which the tax so withheld may be credited under section 35, the amount of such excess shall be considered an overpayment.

[Sec. 322 (a) (2), as added by sec. 172 (e) (1), Revenue Act 1942, and as amended by sec. 4 (a), Current Tax Payment Act 1943; sec. 6 (b) (9), Individual Income Tax Act 1944.]

* * * * *

§ 406.705 *Credit for tax withheld, credit or refund of overpayment of tax withheld.* (a) The credit for tax withheld at source on wages during a calendar year shall be allowed against the tax imposed by chapter 1 of the Internal Revenue Code for the taxable year of the recipient of the income which begins in such calendar year. If such recipient has more than one taxable year beginning in such calendar year, the credit shall be allowed against the tax for the last taxable year so beginning.

(b) If the tax has actually been withheld at the source, credit or refund shall be made to the recipient of the income even though such tax has not been paid over to the Government by the employer. See section 322. For the purpose of the credit, the recipient of the income is the person subject to tax imposed under chapter 1 of the Internal Revenue Code upon the wages from which the tax was withheld. For instance, if a husband and wife domiciled in a community property State make separate returns, each reporting for income tax purposes one-half of the wages received by the husband, each spouse is entitled to one-half of the credit allowable for the tax withheld at source with respect to such wages.

(c) The employee from whose wages tax has been deducted and withheld during any calendar year shall claim credit for the tax withheld on his return of tax under chapter 1 of the Code for the taxable year which begins in such calendar year and shall attach to such return the withholding statement or statements on Form W-2 furnished to him with respect to wages paid during such calendar year. If the amount of the tax withheld exceeds the tax under chapter 1 of the Code against which the tax so withheld may be credited, refund or credit of such excess will be made to the employee in accordance with the applicable provisions of the regulations prescribed under chapter 1 of the Code.

§ 406.706 *Statutory provisions; period of limitation upon refunds and credits.*

SEC. 1636. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS OF CERTAIN EMPLOYMENT TAXES.

(a) *General rule.* In the case of any tax imposed by * * * subchapter D of this chapter—

(1) *Period of limitation.* Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) *Limit on amount of credit or refund.* The amount of the credit or refund shall not exceed the portion of the tax paid—

(A) If a return was filed, and the claim was filed within three years from the time the return was filed, during the three years immediately preceding the filing of the claim.

(B) If a claim was filed, and (i) no return was filed, or (ii) if the claim was not filed within three years from the time the return was filed, during the two years immediately preceding the filing of the claim.

(C) If no claim was filed and the allowance of credit or refund is made within three years from the time the return was filed, during the three years immediately preceding the allowance of the credit or refund.

(D) If no claim was filed, and (i) no return was filed or (ii) the allowance of the credit or refund is not made within three years from the time the return was filed, during the two years immediately preceding the allowance of the credit or refund.

(b) *Penalties, etc.* The provisions of subsection (a) of this section shall apply to any penalty or sum assessed or collected with respect to the tax imposed by * * * subchapter D of this chapter.

(c) *Date of filing return and date of payment of tax.* For the purposes of this section—

(1) If a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be considered paid on March 15 of such succeeding calendar year.

(d) *Application of section.* The provisions of this section shall apply only to those taxes imposed by * * * subchapter D of this chapter, which are required to be collected and paid by making and filing returns.

(e) *Effective date.* The provisions of this section shall not apply to any tax paid or collected with respect to remuneration paid during any calendar year before 1951 or to any penalty or sum paid or collected with respect to such tax.

[Sec. 1636, as added by sec. 207 (a), Social Security Act Amendments 1950.]

§ 406.707 *Period of limitation upon refunds and credits*—(a) *In general.* Unless a claim for refund or credit of an overpayment is filed within three years from the time the return was filed, or within two years from the time the tax was paid, the Commissioner is prohibited, after both periods have expired, from allowing or making a refund or credit of such overpayment. If no return is filed, the Commissioner is prohibited from allowing or making a refund or credit of the overpayment after two years from the time the tax was paid unless before the expiration of such two-year period a claim therefor is filed.

(b) *Limitation on amount of refund or credit.* The limitation on the amount of refund or credit shall be determined in accordance with section 1636 (a) (2)

(c) *Penalties.* The provisions of this section as to the tax required to be deducted and withheld are also applicable to any penalty or other sum assessed or collected with respect to such tax.

(d) *Date of filing return and payment of tax.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, it shall be deemed filed on March 15 of such succeeding calendar year. Likewise, if any tax required to be deducted and withheld during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be deemed paid on March 15 of such succeeding calendar year.

SUBPART H—MISCELLANEOUS PROVISIONS

§ 406.800 *Statutory provisions; jeopardy assessment.*

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector [district director] 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 [district director] a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector [district director] 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.

§ 406.801 *Jeopardy assessments.* (a) Whenever, in the opinion of the district director, the collection of the tax will be jeopardized by delay, he should assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the district director a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the district director deems necessary. Such bond shall be conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the district director negotiable bonds or notes of the United States, or negotiable bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the district director in case of default to collect or sell such bonds or notes so deposited.

(c) Upon refusal to pay, or failure to pay or give bond, the district director will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period prescribed in section 3690.

§ 406.802 *Statutory provisions; period of limitation upon assessment and collection.*

SEC. 1635. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF CERTAIN EMPLOYMENT TAXES.

(a) *General rule.* The amount of any tax imposed by * * * subchapter D of this chapter shall (except as otherwise provided in the following subsections of this section) be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

(b) *False return or no return.* In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) *Collection after assessment.* Where the assessment of any tax imposed by * * * subchapter D of this chapter has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

(e) *Date of filing of return.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year.

(f) *Application of section.* The provisions of this section shall apply only to those taxes imposed by * * * subchapter D of this chapter, which are required to be collected and paid by making and filing returns.

(g) *Effective date.* The provisions of this section shall not apply to any tax imposed with respect to remuneration paid during any calendar year before 1951.

[Sec. 1635, as added by sec. 207 (a), Social Security Act Amendments 1950.]

§ 406.803 *Period of limitation upon assessment and collection.* Section 1635 provides, in general, for a three-year period of limitation on the assessment of the tax required to be withheld. This period of limitation is measured from the date the return is filed, except that if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be deemed filed on March 15 of such succeeding calendar year. For example, if quarterly returns are filed for the four quarters of 1954 on April 30, July 31, and October 31, 1954, and on January 31, 1955, the period of limitation for assessment with respect to the tax required to be reported on each such return is measured from March 15, 1955. However, if any of such returns is filed after March 15, 1955, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed. Where the tax is assessed within the statutory period of limitation, such tax may be collected by distraint or by a proceeding in court, if begun (a) within six years after the assessment of the tax, or (b) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer. In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, and in the case of a willful attempt in any manner to defeat or evade tax, the tax required to be reported on the return may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

§ 406.804 *Statutory provisions; collection of tax in Puerto Rico.*

SEC. 3811. COLLECTION OF TAXES IN PUERTO RICO. * * *

(a) *Puerto Rico.* Notwithstanding any other provision of law respecting taxation in Puerto Rico, all taxes imposed * * * by subchapters * * * D of chapter 9, shall be collected under the direction of the Secretary and shall be paid into the Treasury of the United States as internal revenue collections. All provisions of the laws of the United States applicable to the administration, collection, and enforcement * * * of any tax imposed by subchapter * * * D of chapter 9, shall, in respect to such tax, extend to and be applicable in Puerto Rico in the same manner and to the same extent as if Puerto Rico were a State, and as if the term "United States" when used in a geographical sense included Puerto Rico.

* * * * *

(c) *Definition.* As used in this section, the term "tax" includes any penalty with respect to the tax, any addition to the tax, and any additional amount with respect to the tax, provided for by any law of the United States.

[Sec. 3811 (a), as added by sec. 203 (b), Social Security Act Amendments 1950, and as amended and redesignated as subsection (a) by sec. 221 (i), Revenue Act 1950; and sec. 3811 (c), as added by sec. 221 (i), Revenue Act 1950.]

§ 406.805 *Collection of tax in Puerto Rico.* All provisions of the laws of the United States relating to the administration, collection, and enforcement (such as the provisions relating to the ascertainment, return, determination, redetermination, assessment, collection, remission, credit, and refund) of the income tax withheld at source on wages under section 1622 shall, in respect of such tax, extend to and be applicable in Puerto Rico in the same manner and to the same extent as if Puerto Rico were a State, and as if the term "United States" when used in a geographical sense included Puerto Rico.

§ 406.806 *Statutory provisions; acts to be performed by agents.*

SEC. 1632. ACTS TO BE PERFORMED BY AGENTS. In case a fiduciary, agent or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Commissioner, under regulations prescribed by him with the approval of the Secretary, is authorized to designate such fiduciary, agent or other person to perform such acts as are required of employers under this chapter [chapter 9 of the Internal Revenue Code] and as the Commissioner may specify. Except as may be otherwise prescribed by the Commissioner with the approval of the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent or other person so designated but, except as so provided, the employer for whom such fiduciary, agent or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

[Sec. 1632, as added by sec. 2 (a), Current Tax Payment Act 1943.]

§ 406.807 *Acts to be performed by agents.* If an employer pays wages to an employee or group of employees through a fiduciary, agent, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee or group of employees, the Commissioner may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of employers under the statute and the regulations in this part. Application for authorization to perform such acts, signed by such fiduciary, agent, or other person, should be filed with the Commissioner of Internal Revenue, Washington 25, D. C. If the fiduciary, agent, or other person is authorized by the Commissioner to perform such acts as are required of employers under the statute and regulations, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of an employer shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person acts shall remain subject to all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of employers. (See also § 406.310.)

§ 406.808 *Statutory provisions; additions to tax for failure to pay an assessment after notice and demand.*

SEC. 1420. COLLECTION AND PAYMENT OF TAXES.

* * * * *

(b) *Addition to tax in case of delinquency.* If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 1401 (c) and 1411) at the rate of 6 per centum per

annum from the date the tax became due until paid.

* * * * *

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery.* Where it is not otherwise provided, the collector [district director] 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 [district director] 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 * * *

* * * * *

§ 406.809 *Interest.* If the tax is not paid to the district director when due and is not adjusted under § 406.701, interest accrues at the rate of 6 percent per annum.

§ 406.810 *Addition to tax for failure to pay an assessment after notice and demand.* (a) If tax, penalty, or interest is assessed and the entire amount thereof is not paid within 10 days after the date of issuance of notice and demand for payment thereof, based on such assessment, there accrues under section 3655 (except as provided in paragraph (b) of this section) a penalty of 5 percent of the assessment remaining unpaid at the expiration of such period.

(b) If, within 10 days after the date of issuance of notice and demand, a claim for abatement of any amount of the assessment is filed with the district director, the 5 percent penalty does not attach with respect to such amount. If the claim is rejected in whole or in part and the amount rejected is not paid, the district director shall issue notice and demand for such amount. If payment is not made within 10 days after the date the district director issues the notice and demand, the 5 percent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest.

§ 406.811 *Statutory provisions; additions to tax for delinquent or false returns.*

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

* * * * *

(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 [district director] 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. 1631. FAILURE OF EMPLOYER TO FILE RETURN.

In case of a failure to make and file any return required under this chapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5.

[Sec. 1631, as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 6, Pub. Law 271 (81st Cong.); sec. 209 (d), Social Security Act Amendments 1950.]

§ 406.812 *Additions to tax for delinquent or false returns*—(a) *Delinquent returns*—(1) *Ad valorem addition.* (i) If a person fails to make and file a return required by the regulations in this part within the prescribed time, a certain percent 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 be due to reasonable cause and not to willful neglect. Two classes of delinquents are subject to this addition to the tax:

(*a*) Those who do not file returns and for whom returns are made by a district director, a collection officer, or the Commissioner; and

(*b*) Those who file tardy returns and are unable to show reasonable cause for the delay.

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, subject, however, to the minimum addition to the tax set forth in subparagraph (2) of this paragraph. In computing the period of delinquency all Sundays and holidays after the due date are counted.

(ii) A person who files a tardy return and wishes to avoid the addition to the tax for delinquency must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of a statement which should be attached to the return as a part thereof.

(2) *Minimum addition.* If a person fails to make and file a return required by the regulations in this part within the prescribed time, unless it is shown that the failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5. The addition to the tax or taxes shall be computed as provided in subparagraph (1) of this paragraph, and if less than $5 shall be increased to $5.

(b) *False returns.* If a false or fraudulent return is willfully made, the addition to tax under section 3612 (d) (2) is 50 percent of the total tax due for the entire period involved, including any tax previously paid.

§ 406.813 *Statutory provisions; penalties.*

SEC. 2707. PENALTIES.

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

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

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

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

SEC. 3616. PENALTIES.

Whenever any person—

(a) *False returns.* Delivers or discloses to the collector [district director] or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made; or,

(b) *Neglect to obey summons.* Being duly summoned to appear to testify, or to appear and produce books as required under section 3615, neglects to appear or to produce said books—

he shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

* * * * *

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. 286. CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS [TITLE 18, UNITED STATES CODE].

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SEC. 287. FALSE, FICTITIOUS, OR FRAUDULENT CLAIMS [TITLE 18, UNITED STATES CODE].

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 1001. STATEMENTS OR ENTRIES GENERALLY [TITLE 18, UNITED STATES CODE].

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 1621. PERJURY GENERALLY [TITLE 18, UNITED STATES CODE].

Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both.

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1429. RULES AND REGULATIONS.

* * * The Commissioner, with the approval of the Secretary, shall make and publish rules and regulations for the enforcement of this subchapter.

SEC. 3791. RULES AND REGULATIONS.

(a) *Authorization*—(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title [Internal Revenue Code].

(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.

§ 406.814 *Promulgation of regulations.* In pursuance of sections 1429, 1627, and 3791 of the Internal Revenue Code, and other provisions of the internal revenue laws, the foregoing regulations are hereby prescribed.

[F. R. Doc. 53-10736; Filed, Dec. 28, 1953; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter F—Reserve Forces

PART 861—OFFICERS' RESERVE

APPOINTMENT OF OFFICERS IN THE REGULAR AIR FORCE

Sections 861.101 to 861.107 supersede §§ 861.101 to 861.108 (15 F. R. 3483-85)

Sec.
861.101 Purpose.
861.102 Policy.
861.103 Definitions.
861.104 Responsibility.
861.105 Testing and selection of applications.
861.106 Who may apply.
861.107 Instructions.

AUTHORITY: §§ 861.101 to 861.107 issued under sec. 502, 61 Stat. 882; 10 U. S. C. 506. Interpret or apply sec. 506, 61 Stat. 890; 10 U. S. C. 506c.

DERIVATION: AFR 36-5.

§ 861.101 *Purpose.* Sections 861.101 to 861.107 establish eligibility requirements and procedure for application and appointment of commissioned officers in the Regular Air Force. It applies to all persons desiring consideration for such appointment except those persons applying for appointment in the Medical Service, United States Air Force, Judge Advocate General's Department, and cadets and midshipmen of the United States Military and Naval Academies being appointed in the Regular Air Force upon graduation.

§ 861.102 *Policy.* The policy of the Air Force is to conduct an orderly and gradual buildup of the Regular Air Force toward authorized strength. This buildup will be accomplished primarily by tendering Regular Air Force appointments annually to those non-Regular officers who have demonstrated outstanding officer qualities and ability in specialties particularly suited to the Air Force. The mission of the Air Force dictates that a large proportion of the appointees possess aeronautical ratings.

§ 861.103 *Definitions.* For the purpose of §§ 861.101 to 861.107, the following terms will apply:

(a) *Immediate superior.* The officer to whom an applicant is immediately responsible for the performance of his assigned duty and who is responsible for the preparation of the applicant's AF Form 77, "USAF Officer Effectiveness Report"

(b) *Organization commander.* The commander responsible for the operation and administration of the organization to which the applicant is actually assigned.

(c) *Test control officer.* The officer responsible for administering personnel research tests.

(d) *Commander of major air command.* The commander responsible for the operation and administration of any organization designated a major air command who reports directly to the Chief of Staff, United States Air Force, and under whose command jurisdiction the applicant's organization of assignment falls.

§ 861.104 *Responsibility.* The Director of Training, Headquarters United States Air Force, will:

(a) Transmit testing authority and instructions.

(b) Obtain United States Air Force Performance Reports-Integration Form (AF PRT 422a) from superior officers.

(c) Determine the relative standing of applicants on the basis of performance reports, aptitude tests, and biographical inventories.

(d) Prepare a file on applicants for consideration by the Secretary of the Air Force Personnel Council.

(e) Notify applicants of the final decision on their applications.

(f) Tender Regular Air Force appointments to those persons selected and who are medically qualified for such appointments.

§ 861.105 *Testing and selection of applicants.* The testing and selection of applicants will normally be conducted to appoint two groups of Regular officers each year.

(a) *Application and testing periods.* Applications may be submitted during the periods January 1 to February 28 and July 1 to August 31 each year. Applications received by the Director of Training, Headquarters United States Air Force, other than during these periods will be returned without action. Field testing will commence 30 days after the opening date of each application period. During testing periods, which will be approximately 60 days in duration, each applicant will complete the United States Air Force Officer Aptitude Test, Biographical Inventory and comply with any other pertinent instructions.

(b) *Reapplicants.* An applicant who has been rejected for Regular Air Force appointment under §§ 861.101 to 861.107 (or previous issues thereof) may reapply within established application periods one year after date of previous application provided that all eligibility requirements are met at that time. Only one reapplication may be submitted. Waivers of this requirement will not be

granted. Failure to meet eligibility criteria is not considered as failing to be selected, and those previously having been disqualified administratively, but now eligible under §§ 861.101 to 861.107, may reapply during any application period.

(c) *Processing and consideration.* After field action is completed, applications will be processed in Headquarters United States Air Force. Processing will include obtaining records required to complete applicants' files and computing applicants' composite scores based on the results of tests and performance reports. Completed files on applicants will then be referred to the Secretary of the Air Force Personnel Council for final consideration. Applicants will be either selected for appointment, deferred for reconsideration, or rejected. Only those persons considered to be best qualified will be selected. Due consideration will be given practical experience, academic achievement, qualification in a particularly desired Air Force Specialty, manner of performance, and being graduated as a "distinguished graduate" from the Air Force Reserve Officers' Training Corps, aviation cadet training or United States Air Force Officer Candidate School.

(d) *Notification of appointment, deferral, or rejection.* Applicants selected for appointment will be recommended to the President for nomination to and confirmation by the Senate. When confirmed, applicants will be tendered appointments in the Regular Air Force in the grades of first or second lieutenant in accordance with paragraph (e) of this section. Concurrently, deferred and rejected applicants will be notified of action taken on their applications.

(e) *Grade and seniority.* Statutory limitations provide that active Federal commissioned service performed after December 31, 1947 only, not to exceed 5 years, will be credited for the purpose of determining permanent grades and seniority. Only that service performed in any component of the Army or Air Force after obtaining the age of 21 years is creditable for this purpose. An officer credited with less than 3 years of such service will be appointed in the grade of second lieutenant. Those credited with 3 or more years of such service will be appointed in the grade of first lieutenant. Any higher temporary grade held in the Air Force will not be affected by acceptance of a Regular Air Force appointment.

(f) *Delay of appointment.* To prevent loss of seniority among new Regular officers and to eliminate a delay in promoting Regular second lieutenants already on the promotion list, the appointment of all officers who are within 6 months of becoming eligible for appointment in the grade of first lieutenant, Regular Air Force, at time of selection will be deferred until the date on which they complete 3 years of service as described in paragraph (e) of this section. Officers whose appointments are temporarily delayed and whose current service statements will expire before appointment can be tendered will be permitted to sign indefinite service statements with the proviso that they will be released from active duty without delay in the event their appointment fails to materialize for any reason and they express a desire for release in writing.

§ 861.106 *Who may apply.* Any person who meets the following eligibility requirements may apply for appointment in the Regular Air Force:

(a) *Current status.* At time of application, an applicant must hold a valid appointment as a Reserve officer of the Air Force, and must be serving as a commissioned officer in the active military service.

(b) *Prior commissioned service.* At time of application, an applicant must have completed at least 18 months' active Federal commissioned service within the 3-year period immediately preceding application. Not less than 6 months of this service must have been spent in the performance of duty other than as a student, in a travel status, awaiting assignment, on leave, or other such duty status. Short tours of active duty of 90 days or less may not be included in computing service for this purpose.

(c) *Age.* On the opening date of period for submission of application, an applicant may not exceed the age of 27 years by more than the number of years, months, and days (not to exceed 4 years, 6 months) he has served on active duty since December 31, 1947, as a commissioned officer of the Army of the United States or the Air Force. At the time of appointment, a successful applicant may not exceed the age of 27 years by more than the number of years, months, and days (not to exceed 5 years) of active Federal commissioned service performed by him since December 31, 1947, with the Army of the United States or the Air Force. The above age restriction for appointment in the Regular Air Force is established in sec. 506, 61 Stat. 890; 10 U. S. C. 506c; therefore, waivers of the maximum allowable age for appointment in the Regular Air Force are precluded by law.

(d) *Citizenship.* An applicant must be a citizen of the United States. An applicant who is not a citizen by birth must furnish a certificate by an officer, notary public, or other person authorized by law to administer oaths, giving the following information:

I certify that I have this date seen the original certificate of Citizenship Number ____ (or certified copy of court order establishing citizenship) stating that _____ (Full name) _____ was admitted to United States Citizenship by the _____ Court of _____, _____ on _____.
(District or County) (State) (Date)
The following person was named in the certificate as a minor child: _____, (Full name) age _____.

NOTE: Facsimiles or copies, photographic or otherwise, will not be made of naturalization certificates under any circumstances. Act 25 June 1948 (62 Stat. 767; 18 U. S. C. 1426 (h)) provides that whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(e) *Education.* At time of application, an applicant must have satisfactorily completed, or have been granted credit for, a minimum of 60 semester-hours (or 90 quarter-hours) toward a baccalaureate degree from a nationally or regionally accredited college or university or have successfully completed the General Educational Development Test (College Level), administered by the United States Armed Forces Institute. Although not required, a baccalaureate degree is desirable, particularly in the fields of engineering, the basic sciences, or management and its related fields.

(1) Applicants whose credits are from other than a nationally or regionally accredited institution will be considered as meeting the educational requirements upon presentation of evidence that their credits are acceptable for admission in at least full junior standing to a nationally or regionally accredited college or university.

(2) The passing scores for the General Educational Development Test (College Level) for the purpose of §§ 861.101 to 861.107 only, are:

(i) Test I	61
(ii) Test II	70
(iii) Test III	72
(iv) Test IV	68

(f) *Medical.* An applicant must be medically qualified for appointment in the Regular Air Force. Standard Form 88, "Report of Medical Examination," and Standard Form 89, "Report of Medical History," will not be submitted with application. Those applicants selected for Regular appointment will be asked to undergo a medical examination prior to being tendered appointments.

(g) *Dependents.* Male applicants are not restricted with regard to dependents. However, a female applicant who has any legal or other responsibility for the custody, control, care, maintenance, or support of a dependent under 18 years of age may not be appointed a Regular Air Force officer. A woman having a stepchild or foster child under 18 years of age and such child is within her household for a period of more than 30 days each year or who otherwise stands in relationship of parent to such child may not be appointed.

§ 861.107 *Instructions*—(a) *Applicant.* Any person who is eligible under § 861.106, may be considered for Regular appointment by complying with these instructions. Failure to comply with subparagraph (1) of this paragraph in all respects will preclude an applicant from being considered for appointment.

(1) *Submitting application.* Proper application must be submitted during the periods indicated in § 861.105 (a) to the applicant's immediate superior. A proper application consits of the following documents:

(i) AF Form 17, "Application for Commission in the United States Air Force" completed in duplicate.

(ii) Originals or photostatic copies of properly authenticated transcripts of all college credits or the military test report from United States Air Force Institute indicating scores attained in the General Educational Development Test (College Level) An applicant reapplying, who

has submitted transcripts or a General Educational Development Test report with a previous application under §§ 861.101 to 861.107, may attach a statement to that effect giving date of previous application.

(iii) One copy of DD Form 98, "Loyalty Certificate for Personnel of the Armed Forces" and one copy of DD Form 98a, "Consolidated List of Organizations Designated by the Attorney General on October 30, 1950, pursuant to Executive Order 9835."

(iv) Certificate from an officer verifying citizenship by naturalization as required by § 861.106 (d) if applicable.

(2) *Completing AF Form 17.* For the purpose of §§ 861.101 to 861.107, instructions on AF Form 17, August 23, 1949, are revised and supplemented as follows:

(i) *Item 11, section I.* Below the heading "Other Schools," enter all military schools attended by the applicant and indicate the period of attendance, title of course, whether successfully completed, and final grade or class standing if known.

(ii) *Item 17 section I.* Enter all supplementary schooling completed by the applicant or in process such as extension or correspondence courses, examinations for credit, or home study without supervision and indicate type of study, titles of courses, and credit granted or expected to be granted.

(iii) *Item 11, section II.* If the applicant holds an aeronautical rating, indicate whether currently or flying status. If the applicant holds an aeronautical rating and is not on flying status, give reasons therefor.

(iv) *Item 12, section II.* Enter names and other required information of all immediate superior officers under whom the applicant has served directly as a commissioned officer for periods of 90 days or more during the 3-year period immediately preceding application, except the immediate superior to whom application is submitted.

(v) *Item 13, section II.* Enter names and other required information of superior officers (other than those listed in item 12) who have either exercised supervision over the applicant or have closely observed the applicant in the performance of duty for a period of 90 or more days during the 3-year period immediately preceding application.

(3) *Service statement.* The service statement of the person to include date of expiration will be indicated in paragraph 14, section II, of AF Form 17, dated August 23, 1949, or the remarks paragraph of AF Form 17, dated September 1, 1952. Persons who submit valid applications and are subsequently relieved from active duty will be considered for Regular commissions. Applicants in this category who are selected will be tendered appointments provided that they are medically qualified and do not exceed the maximum statutory age for initial appointment as specified in § 861.106 (c)

(4) *Change of address.* The military address furnished on the AF Form 17 will be used for the purpose of contacting an applicant with regard to his application. The applicant will give immediate notice to the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C., of any change of address, permanent or temporary (if for 15 days or more) between submission of application and notification of final action. If such a change of address occurs prior to completion of field testing, notification will be made by electrical means.

(5) *Reporting for testing.* An applicant will report for testing at the designated time and place or make prior arrangements satisfactory to the appropriate base commander. Applicants who have been scheduled for testing and who proceed on temporary duty, permanent change of station, or leave prior to being tested, will report to the nearest base with testing facilities to be scheduled for testing. To be tested, such applicants must present copy of letter from Headquarters United States Air Force acknowledging receipt of application and containing authority for being tested to any commander of a base where testing facilities are available.

(6) *Replying to communications.* Applicants who do not promptly reply to and/or comply with all communications and instructions regarding their applications and testing will be considered as being no longer interested in a Regular commission and their applications may be abandoned by Headquarters United States Air Force.

(7) *Comprising test questions.* Applicants are directed not to discuss the contents of the United States Air Force Officer Aptitude Test after its completion. Since officers are selected for Regular appointments on a competitive basis, any applicants who have advance information concerning test questions will be at a decided advantage over all other applicants.

(8) *Distinguished graduates of Air Force Reserve Officers' Training Corps, Aviation Cadet Training, or United States Air Force Officer Candidate School.* An applicant who has been designated a "distinguished graduate" should attach a copy of the letter of designation to his application to insure that special consideration is given for such achievement.

(b) *Immediate superior.* The immediate superior will review the application for completeness and correctness and forward the application within 3 working days of receipt to the applicant's organization commander. The forwarding indorsement will contain a statement regarding the applicant's suitability for appointment in the Regular Air Force. The officer evaluation report referred to on AF Form 17 will not be prepared by the immediate superior at time application is indorsed to the organization commander.

(c) *Organization commander* After receipt of the application, the organization commander will:

(1) Determine if applicant meets the eligibility requirements for applying, and if application has been supported with the necessary documents. Sections 861.106 and 861.107 (a) (1) will be used as a checklist for this purpose.

(2) Return incomplete applications by indorsement directly to the applicant with reasons therefor. Information copies of all indorsements returning applications will be furnished the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C.

(3) Indorse complete applications with a statement to the effect that the applicant's records have been examined carefully, the applicant is eligible under §§ 861.101 to 861.107, the application is complete, and nothing was found in the applicant's file of a sufficient derogatory nature to preclude further consideration of the application.

(4) Furnish sufficient explanation of the circumstances in the event of derogatory information or questionable findings.

(5) Indorse completed applications direct to the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C. Applications from organizations located overseas will be forwarded by airmail.

(6) Advise the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C., if, between date of application and final action by Headquarters United States Air Force, any matter comes to his attention with regard to an applicant under his command which would materially affect (favorably or unfavorably) the applicant's qualifications for Regular Air Force appointment. Such communications will be classified appropriately.

(7) Upon receipt of notification of testing appointment for any member of his organization, issue necessary instructions directing travel where necessary and specifying time and place applicant must report for testing. If the applicant will not be available at the specified time, advise the base commander responsible for testing that it is not feasible for applicant to report and request that another date and/or testing point be designated.

(d) *Commander of major air command.* The commander of each major air command will monitor and coordinate the testing of applicants by base commanders and determine the appropriate base for testing.

(1) *Testing authority.* Authority to test applicants will be forwarded by the Director of Training, Headquarters United States Air Force, directly to the commander of the major air command or on occasion directly to the appropriate base commanders. Persons will be tested only upon receipt of this specific authority or upon presentation by applicants of acknowledgement letters from Headquarters United States Air Force indicating receipt of their applications. Testing authority will be transmitted either by letter or electrical communication. Upon receipt of testing authority, the commander of the major air command will relay instructions for testing to his base commanders for completion of testing.

(2) *Inability to accomplish testing.* Upon notification by a base commander that testing cannot be accomplished,

the commander of the major air command will take the following action by electrical means:

(i) If testing cannot be accomplished because applicant is located in an area normally serviced by another base but still under the jurisdiction of the same major air command, testing authority will be transferred to the appropriate base. This authority may be delegated to base commanders for automatic implementation.

(ii) If the applicant is located outside the geographical jurisdiction of the major air command, testing authority will be transferred to the appropriate major air command for action. Information copies of all communications either written or electrical transferring testing authority between major air commands will be furnished to the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C.

(iii) If a base commander is unable to accomplish testing for reasons other than the applicant's absence from the base area, the commander of the major air command will make every effort to resolve the problem and arrange for testing. If a solution does not appear feasible, the commander of the major air command will promptly advise the Director of Training, Headquarters United States Air Force, Attention: Personnel Procurement Division, Washington 25, D. C., with a brief statement of the circumstances.

(e) *Base commander* Immediately upon receipt of testing authority from Headquarters United States Air Force or a major air command, or upon presentation by an applicant of a letter from Headquarters United States Air Force acknowledging receipt of his application, base commanders will make arrangements to test applicants. Applicants will be scheduled for testing during one of the testing periods set forth in § 861.105

(a) Priority will be given to applicants who may be under orders for change of station or who are not in the active military service. In conjunction with their notifications, applicants will be advised regarding any documents or records which they may be required to furnish for completion of their application. In order to test applicants, base commanders will:

(1) Request organization commanders of applicants on active duty to issue necessary instructions, directing travel where necessary, and specifying the time and place of testing.

(2) Furnish written notification to applicants who are not in the active military service, specifying the time and place for testing and informing them that cost of travel, quarters, and subsistence will be at no expense to the Government. Every effort will be made to schedule such applicants at times convenient to them.

(3) Give applicants upon arrival for testing a brief orientation to consist of:

(i) A brief welcome, an explanation of how applicants will be scheduled and rules of the testing center, including a description of messing, billeting, and other facilities.

(ii) Direction not to discuss test questions with any other applicants for the reason stated in § 861.107 (a) (7)

(4) If the responsible test control officer is an applicant for a Regular Air Force commission, appoint a Regular Air Force officer to administer the test to the test control officer.

[SEAL] K. E. THIEBAUD,
Colonel, U S. Air Force,
Air Adjutant General.

[F. R. Doc. 53-10734; Filed, Dec. 28, 1953; 8:45 a. m.]

PART 861—OFFICERS' RESERVE

SHORT AND SPECIAL TOURS OF ACTIVE DUTY

1. Sections 861.1151 to 861.1166 supersede §§ 861.1151 to 861.1177 (16 F R. 165-167; 32 CFR 861.1151-861.1177)

SHORT AND SPECIAL TOURS OF ACTIVE DUTY

Sec.
861.1151 Purpose.
861.1152 Policy.
861.1153 Definitions.
861.1154 Duration of tours.
861.1155 Place of duty.
861.1156 Eligibility for training.
861.1157 Employees of the United States Government or District of Columbia.
861.1158 Application.
861.1159 Medical examination.
861.1160 Waivers of medical defects.
861.1161 Reservists medically disqualified.
861.1162 Travel.
861.1163 Leave.
861.1164 Supply.
861.1165 Special tours for medical and dental officers.
861.1166 Letter of application and medical certificate forms.

AUTHORITY: §§ 861.1151 to 861.1166 issued under R. S. 161; sec. 202, 61 Stat. 500 as amended; 5 U. S. C. 22, 171a. Interpret or apply secs. 32, 41 Stat. 776 as amended; 35 Stat. 780, 40 Stat. 72 as amended; 10 U. S. C. 361, 369, 371, 371b, 422, 426, 427.

DERIVATION: AFR 35-76.

§ 861.1151 *Purpose.* Sections 861.1151 to 861.1166 establish the qualifications of officers (other than general officers) and airmen of the Air Force Reserve who may be ordered to short or special tours of active duty for the purpose of indivdual training, training with units, attendance at schools, or for the convenience of the Government. Sections 861.1151 to 861.-1166 also set forth the procedure whereby doctors of medicine and dentistry who are Air Force Reserve Forces officers may be ordered to special tours of active duty to fill vancancies in Air Force base medical activities in the immediate vicinity of their residences.

§ 861.1152 *Policy.* To accrue maximum benefit to the Air Force Reserve, eligible individuals may be authorized active duty for training purposes as outlined in §§ 861.1151 to 861.1166.

§ 861.1153 *Definitions.* For the purpose of §§ 861.1151 to 861.1166 the following definitions will apply·

(a) *Short tour* A tour of active duty for training for the purpose of maintaining individual or unit proficiency.

(b) *Special tour* A tour of active duty for training for the convenience of the Government for which the Reservist must have volunteered. Special tours of active duty for Reserve program projects must be for the accomplishment of projects relating solely to the Reserve programs and must benefit the Air Force Reserve. Requests for approval of such tours must be justified in detail to Headquarters United States Air Force. These tours will be granted only if the duties to be performed are beyond the normal responsibility of the Regular Air Force to the Air Force Reserve. Special tours of active duty training may be authorized for but not limited to the following purposes:

(1) Advance party support for the operation of unit active duty training bases when the units concerned train at bases other than their home bases.

(2) Air Force Reserve members of local committees on Air Force Reserve policy may be ordered to special tours of active duty for the purpose of attending committee meetings, by the Continental Air Command without prior approval of Headquarters United States Air Force.

(c) *Tour for school training.* A tour of active duty for training to attend accredited service schools conducted by the Air University, the Air Training Command, and joint service schools.

§ 861.1154 *Duration of tours*—(a) *Short tours.* Short tours will be of 15 consecutive days' duration, including traveltime. A Reservist may not receive more than one short tour of active duty in any fiscal year.

(b) *Special tours.* Special tours may not be of more than 90 days' duration, including traveltime. A Reservist may not serve on special tours more than a total of 90 days in any fiscal year. These tours will be approved only by Headquarters United States Air Force and must be justified as specified in § 861.1153 (b)

(c) *Attendance at schools.* Normally, Reservists will be ordered to tours for school training for a period not to exceed 90 consecutive days, including traveltime. However, because of traveltime involved and variance in the duration of courses, Reservists may be authorized active duty of sufficient duration, including traveltime, to complete the courses they are selected to attend.

(d) *Active duty training without pay.* Active duty training without pay is not authorized.

§ 861.1155 *Place of duty.* All Reservists ordered to short or special tours of active duty will perform the duty at the place to which assigned, unless otherwise ordered.

§ 861.1156 *Eligibility for training*—(a) *Reservists assigned to program elements in Training Categories A, B and C.* Reservists assigned to program elements in Training Categories A, B, and C (see §§ 861.1 to 861.13) are authorized a 15-day short tour annually.

(b) *Reservists assigned to program elements in Training Category D.* Reservists assigned to program elements in Training Category D (see §§ 861.1 to 861.

13) are eligible for 15-day short tours, contingent upon the availability of funds. When funds are made available, such persons will be given priority for short tours in the order of their awarded Availability Classification Codes. Those persons most readily available for active military service will be given the higher priority.

(c) *Ineligible reservists.* The following members of the Air Force Reserve are ineligible for 15-day short tours, special tours, or tours for school training, except those Reservists listed in subparagraph (1) of this paragraph who are eligible for special tours and tours for school training.

(1) Nonaffiliated Reservists of the Ready and Standby Reserve (Training Category F)

(2) Ineligible Reservists of the Ready and Standby Reserve (Training Category G)

(3) Reservists on the Inactive-Status List of the Standby Reserve.

(4) Reservists who are drawing a pension, disability allowance, disability compensation, retired pay, or retirement pay, and who have not waived such entitlements. (Such a waiver will be executed in accordance with § 861.1158 (a) (4)

(5) Reservists retired without pay.

(6) Officers of the Air Force Reserve currently serving in warrant or enlisted status in the Air Force.

(7) Reservists whose appointment or enlistment will expire prior to the completion of a tour of duty.

§ 861.1157 *Employees of the United States Government or District of Columbia.* (a) A Reservist who is a full-time employee of the Federal Government will not be ordered to active duty training to perform duties in the same position he occupies as a civilian employee.

(b) Members of the Air Force Reserve who are granted annual leave upon expiration of the 15 days' military leave which is authorized by law, for the purpose of performing further military duty, are entitled to receive the compensation of their civilian position for the period of such annual leave in addition to the pay and allowances authorized for the military duty without regard to dual compensation laws.

§ 861.1158 *Application*—(a) *Short tours or tours for school training.* Each Reservist desiring a 15-day short tour or a tour for school training will submit a letter application, in duplicate, using § 861.1166 (a) as a guide. The application must be complete to include medical examination in accordance with § 861.1159, if required, and will be submitted to the unit of assignment in sufficient time to insure its receipt not later than 30 days prior to the expected effective date of active duty.

(1) *Reservists assigned to mobilization positions.* Reservists assigned in a mobilization assignment or mobilization designation will forward their applications to the activity to which they are assigned.

(2) *Reservists assigned to ready reserve units.* Reservists assigned to Air Force Reserve combat, combat support, or flying training wings are not required to submit short tour applications for wing encampments. Applications for individual short tours or tours for school training will be submitted through the unit of assignment.

(3) *Reservists assigned to Air Force Reserve specialist training or Volunteer Air Reserve training units.* Reservists assigned to Air Force Reserve specialist training or Volunteer Air Reserve training units will submit applications through channels to the appropriate Continental Air Command numbered air force headquarters.

(4) *Reservists who are drawing pensions, disability allowance, etc.* Reservists who are drawing pensions, disability allowance, disability compensation, retired pay, or retirement pay must waive such entitlements prior to entry on active duty.

(b) *Special tours.* Justification for special tours will be forwarded by the unit concerned, through channels, to Headquarters United States Air Force as prescribed in § 861.1153 (b) Application of the person concerned will be included.

§ 861.1159 *Medical examination*—(a) *Medical requirements.* All applicants for active duty must be medically qualified for active military service and must meet the appropriate medical requirements. Rated personnel on flying status will receive a medical examination for flying. Other personnel will receive the standard medical examination, if required.

(b) *For tours not in excess of 30 days.* Reservists selected for tours of active duty for periods not in excess of 30 days will be ordered to active duty without prior medical examination, except as provided in paragraph (d) of this section.

(c) *For tours in excess of 30 days.* Reservists applying for tours of active duty for periods in excess of 30 days will be required to undergo a medical examination without expense to the Government for travel or pay. Medical examinations accomplished not more than 90 days and normally not less than 45 days prior to the expected date of entry on active duty are acceptable. Examinations may be performed at the military installations nearest the Reservist's place of residence having the medical facilities to accomplish such examinations.

(d) *Action to be taken upon reporting.* Upon reporting, for active duty, each Reservist, if he considers himself qualified for full military duty, will execute, in duplicate a certificate as shown in § 861.1166 (b) (1) If he does not consider himself so qualified and, therefore, cannot conscientiously execute the certificate, he will be ordered by the commander of the base at which the training is to be accomplished to submit to a medical examination. In any event, if a Reservist, upon reporting for active duty, possesses an obvious physical disability, is ill, has been injured in any way since last taking a medical examination, or is drawing a pension, disability allowance, or disability compensation, he must submit to a medical examination.

(e) *Action to be taken upon relief.* Upon relief from active duty, each Reservist will execute a certificate as shown in § 861.1166 (b) (2). However, if the Reservist believes that his physical condition has materially changed during his active duty tour or if he is suffering from any disability or defect that was not present at the beginning of his tour, he will be ordered by the commander of his training base to submit to a medical examination. If this examination is made, particular attention will be given to recording the defects or conditions which have arisen during his tour of duty as they may form the basis of a claim against the Government.

(f) *Inapplicable portions of standard medical examination.* Wherever feasible, the complete standard medical examination will be accomplished. The following portions may be omitted when not clinically indicated: Serology, chest X-ray, electrocardiogram, audiogram, microscopic urinalysis, lens correction, and pelvic examination for female personnel.

(g) *Injury, disease, death, or hospitalization.* Appropriate Air Force regulations will apply in the event of injury, disease, death, or hospitalization.

§ 861.1160 *Waivers of medical defects*—(a) *Authority to approve.* Commanders are authorized to approve waivers of medical defects if a Reservist is found to be below the prescribed medical standards for general service, as outlined in applicable regulations. Due consideration will be given to granting waivers for medical defects which, in the opinion of the reviewing authority:

(1) Are static in nature.

(2) Are not subject to complication or aggravation by reason of military duty.

(3) Will not interfere with the satisfactory performance of full military duty.

(4) Will not involve hospitalization and/or time lost from duty.

(5) For rated personnel, will not, in any way, compromise performance of unlimited flying duty, flying safety, or the person's own well-being.

(b) *Personnel presenting questionable defects.* In the event a person presents a defect which, in the opinion of the reviewing authority, is questionable in nature with regard to criteria outlined in paragraph (a) of this section, the case may be forwarded to the next higher headquarters for action.

§ 861.1161 *Reservists medically disqualified*—(a) *Relief from active duty when medically disqualified.* Reservists on active duty who undergo a medical examination and who are found medically disqualified will be relieved from active duty by the commander of the base where the medical examination is taken, if waiver of medical defect is not approved by the reviewing authority. Notice to this effect will be furnished the commander who ordered the Reservist to active duty.

(b) *Administrative action required.* Upon receipt of notice of medical disqualification, the command of assignment will determine whether the person desires placement in the Ineligible Re-

serve Section or in the Retired Reserve, as appropriate, under §§ 861.1 to 861.13. If the person is ineligible for or does not desire placement in the Ineligible Reserve Section or in the Retired Reserve, separation action will be taken.

§ 861.1162 *Travel*—(a) *Less than 90 days.* For active duty tours of less than 90 consecutive days, travel by military conveyance, commercial transportation, or privately owned conveyance is authorized. When travel is performed by military or commercial transportation, the active duty and traveltime allowable will be computed on the basis of the time actually and necessarily consumed in traveling. If travel is performed by privately owned conveyance, the traveltime and the active duty time allowable will be the constructive traveltime of commercial transportation over the shortest usually traveled route. Mode of travel may be directed, however, if privately owned conveyance is used in place of available military transportation or in place of a directed mode of transportation, the traveltime and the active duty time allowable will not exceed the constructive traveltime of such available or directed mode of transportation.

(b) *More than 90 days.* For tours for school training only, travel by military conveyance, commercial transportation, or privately owned conveyance is authorized for active duty tours of 90 or more consecutive days. When travel is performed by military or commercial transportation, the active duty time and traveltime allowable will be computed on the basis of the time actually and necessarily consumed in traveling. When travel is performed by privately owned conveyance, the active duty time and the travel time allowable will be computed on the basis of 1 day for each 300 miles traveled. One day of traveltime will also be allowed for each fraction of 300 miles in excess of 150 miles.

(c) *Distance.* The distance traveled will be computed on the basis of the shortest usually traveled route as prescribed by current directives. Travel allowances will be as prescribed in current directives.

§ 861.1163 *Leave.* Reservists ordered to active duty for 30 days or more are authorized leave as indicated in current directives. Orders for active duty training will not prescribe that leave be taken within the tour of duty. Instructions issued to Reservists who are ordered to active duty training for 30 days or more will include information regarding cash settlement for unused leave credit at the termination of the tour.

§ 861.1164 *Supply.* Necessary clothing and individual equipment for enlisted Reservists will be furnished as prescribed in current directives.

§ 861.1165 *Special tours of active duty for medical and dental officers*—(a) *Intermittent service.* Where the vacancy and need exist, arrangements may be made at base level for intermittent service, for example, on a certain day or on certain days of each week, such arrangements being adaptable to the requirements of the individual's civilian practice as well as the requirements of the Air Force.

(b) *Eligibility.* All Air National Guard of the United States medical and dental officers and Air Force Reserve medical and dental officers of the Ready and Standby Reserve assigned to program elements of Training Categories A through F are eligible for consideration for participation in this program. Those persons desiring to participate in this program who are not so commissioned may apply for appointment as a Reserve officer of the Air Force under existing regulations.

(c) *Grade.* Officers selected for duty under this section will be ordered to duty in the grade in which currently commissioned in the Air Force Reserve or the Air National Guard of the United States.

(d) *Limitations*—(1) *Existing vacancies.* An officer will be placed on active duty under this section only to fill an actual requirement within the total medical or dental authorizations for the medical activity concerned.

(2) *Length of tours.* An individual tour of duty will not exceed 29 consecutive days in any instance. The cumulative total will not exceed 90 days in any one fiscal year.

(3) *Travel.* Travel allowances will be authorized as prescribed by current directives. Reimbursement for transportation of dependents and movement of household goods is not authorized. Mileage allowances will not be paid to medical officers who live in the same city or surrounding community in which the air installation is located.

(4) *Leave.* Individuals ordered to active duty under this section will not be granted leave or paid compensation in lieu thereof.

(e) *Application procedure.* (1) Interested Air Force Reserve medical or dental officers will submit typed letter applications, in duplicate (using § 861.1166 (a) as a guide) requesting duty to the commander of the Air Force base at which the duty is desired. The actual dates the applicant will be available for duty will be indicated in the remarks section. The commander of the base will determine the need for the Reservist's services and indorse the application for approval to the commander of the active establishment organization maintaining the Reservist's field personnel records or return the application to the individual, as appropriate.

(2) Interested Air National Guard of the United States medical and dental officers will submit typed letter applications, in duplicate (using § 861.1166 (a) as a guide) indicating in the remarks section, the actual dates the applicant will be available for duty. The application will be submitted through the Air National Guard organization of assignment to the commander of the Air Force base at which the duty is desired. The base commander will determine the need for the individual's services and forward the application to the appropriate State Adjutant General, or return it through channels to the individual, as appropriate. (All references in §§ 861.1151 to 861.1166 to the State Adjutant General apply equally to the Adjutant General of the several Territories and the Commanding General of the District of Columbia.) The State Adjutant General will verify the applicant's status and return the application to the base commander indicating his approval or disapproval.

(f) *Medical qualifications.* Medical qualification will be determined under § 861.1159.

(g) *Issuance of orders.* (1) Orders for special tours of active duty may be issued by the commander of the base at which duty is desired, provided that such orders have been authorized by the commander of the active establishment organization required to maintain the applicant's field personnel records.

(2) Officers of the Air National Guard of the United States participating in this program will be ordered to active duty by the commander of the base at which duty is desired upon receipt of the approved application from the appropriate State Adjutant General.

§ 861.1166 *Letter of application and medical certificate forms*—(a) *Application for active duty.*

(Grade) (Name) (AFSN)
(Street Address)
(City and State)
(Date)

Subject: Short Tour of Active Duty.
To: (Appropriate Command).

1. Request that I be placed on active duty, effective _____ for the purpose of training/school training.*

2. The following information is furnished to assist you in processing this application:

a. Name, grade and AFSN.
b. Permanent residence address.
c. Current home address or mailing address (if different from b above).
d. Aeronautical rating.
e. Flying status.
f. Service for longevity (to closest number of years).
g. Race.
h. Primary AFSC: _____. Additional AFSC's: _____.
i. Date of last period of extended active duty, active duty training, or school training **. _____. Authority for the active duty. _____.
j. Current Reserve assignment: _____ per _____.
k. I (am) (am not) * drawing a pension, disability allowance, disability compensation, retired pay, or retirement pay from the United States Government.
l. Remarks: _____

_____
(Signature)

* Strike out words not applicable.
** Whichever is the later.

(b) *Medical certificates*—(1) *Medical certificate No. 1.*

_____
(Date)

I certify that I now consider myself sound and well and physically qualified for military duty; that I was considered physically qualified for military service at the time of accomplishment of my last physical examination on or about _____ at _____
(Date) (Place)
_____, and that to the best of my knowledge and belief, I do not have any physical defects or conditions, except as noted below, which would preclude the performance of full military duty.

(Signed) _____

(2) *Medical certificate No. 2.*

(Date)

I certify that during the period of active duty training from _____ to _____ there has been no change in my physical condition and that I am not suffering any disability, defect, or illness which was not present at the beginning of the tour of duty.

(Signed) _____

2. Sections 861.1201 to 861.1210, Flying Training in Grade, are revoked.

(R. S. 161; sec. 202, 61 Stat. 500 as amended; 5 U. S. C. 22, 171a.)

[SEAL] K. E. THIEBAUD,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 53-10733; Filed, Dec. 28, 1953; 8:45 a. m.]

PART 864—ENLISTED RESERVE

CROSS REFERENCE: For regulations applicable to airmen of the Air Force Reserve with respect to short or special tours of active duty for the purpose of individual training with units, attendance at school, or for the convenience of the Government, see §§ 861.1151 to 861.1166 of this chapter, *supra.*

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments are made to Chapter II, of Title 46:

Subchapter B—Regulations Affecting Maritime Carriers and Related Activities

PART 222—STATEMENTS AND AGREEMENTS REQUIRED TO BE FILED

1. General Order 9 (§ 222.1, 2 F. R. 1240) is amended by striking out the word "Commission" wherever it appears therein, and by inserting in lieu thereof "Federal Maritime Board and Maritime Administrator, Department of Commerce"

2. United States Shipping Board Order, September 1, 1927 (§§ 222.11 to 222.16, inclusive) is amended—

a. By striking out "U. S. Maritime Commission" wherever it appears therein, and inserting in lieu thereof "Federal Maritime Board"

b. By striking out "Division of Regulations" and inserting in lieu thereof "Regulation Office"

c. By striking out "Commission's" wherever it appears therein, and inserting in lieu thereof "Board's" and

d. By striking out "Commission" wherever it appears therein, and inserting in lieu thereof "Board"

PART 226—FREE TIME AND DEMURRAGE CHARGES ON IMPORT PROPERTY APPLICABLE TO ALL COMMON CARRIERS BY WATER

1. General Order 69, as amended by Amendment 1 (§ 226.1 (b) (d), and (e) 14 F. R. 2044, 13 F R. 6538) is amended by striking out "Commission" wherever it appears therein, and inserting in lieu thereof "Board"

PART 231—PUBLICATION, POSTING AND FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES

1. Tariff Circular 3, February 17, 1948 (§§ 231.0 to 231.23; 13 F. R. 709, is amended:

a. By striking out, wherever it occurs therein, "Commission" and inserting in lieu thereof "Board"

b. By striking out, wherever they occur therein, the terms "United States Maritime Commission" and "U. S. Maritime Commission" and inserting in lieu thereof "Federal Maritime Board"

c. By striking out "United States Maritime Commission's" wherever it occurs therein, and inserting in lieu thereof "Federal Maritime Board's"

d. By striking out the term "USMC" wherever it occurs therein, and inserting in lieu thereof the term "FMB" and

e. By striking out "Division of Regulation" and inserting in lieu thereof "Regulation Office"

PART 235—SCHEDULES OF COMMON CARRIERS BY WATER IN FOREIGN COMMERCE

1. Order 128, Department of Commerce, July 12, 1935 (§ 235.1) is amended by striking out "Commission" wherever it appears, and inserting in lieu thereof "Federal Maritime Board"

PART 237—REPAIRS TO VESSELS UNDER BAREBOAT CHARTER

1. General Order 51 (§§ 237.1 to 237.3; 7 F R. 910) is amended by striking out "Commission" wherever it appears therein, and inserting in lieu thereof "Maritime Administration"

PART 243—COMMERCIAL FORWARDING OF CERTAIN EXPORTS FOR FOREIGN RELIEF AND REHABILITATION

1. General Order 70, as amended by Amendment 2 (§§ 243.1 to 243.3; 15 F. R. 2877, 14 F R. 2854) is amended by striking out "Commission" wherever it appears, and inserting in lieu thereof "Maritime Administration" and by striking out "Maritime Commission" wherever it appears therein, and inserting in lieu thereof "Maritime Administration"

PART 244—BUSINESS PRACTICES OF FREIGHT FORWARDERS

1. General Order 72 (§§ 244.2 to 244.14, 15 F. R. 3153) is amended by striking out "Commission" wherever it appears therein, and inserting in lieu thereof "Federal Maritime Board" and by striking out "Form MC-21" and inserting in lieu thereof "Form FMB-21"

PART 246—FORMULA FOR DETERMINING SEA SPEED OF VESSELS

1. General Order 43 Revised (§§ 246.1 to 246.8; 7 F R. 3579) is amended by striking out "U. S. Maritime Commission" in § 246.5 and inserting in lieu thereof "Maritime Administration, Department of Commerce"

Subchapter C—Regulations Affecting Subsidized Vessels and Operators

PART 262—MINIMUM-WAGE, MINIMUM-MANNING, AND REASONABLE WORKING CONDITIONS

1. General Order 15 (§§ 262.11, 262.12, 262.21 (b) and 262.22 (b) 2 F. R. 2627) is amended by striking out "Commission" wherever it occurs therein, and inserting in lieu thereof "Board"

2. General Order 32 (§§ 262.101 to 262.109; 5 F. R. 2229) is amended by striking out "United States Maritime Commission" and inserting in lieu thereof "Federal Maritime Board" by striking out "Commission" wherever it occurs therein, and inserting in lieu thereof "Board" and by striking out in § 262.103 the words "Director of the Division of Maritime Personnel" and the remainder of the section, and by inserting in lieu thereof "the Board will provide for an investigation of the views of all parties whose interests appear affected by the petition and for a report thereof to the Board" and by striking out in § 262.105 the term "Division of Maritime Personnel" and inserting in lieu thereof "Hearing Examiners' Office"

PART 275—OUTFITTING MATERIALS AND EQUIPMENT FOR CONSTRUCTION—DIFFERENTIAL SUBSIDY VESSELS

1. General Order 37 (§§ 275.1 to 275.4; 6 F. R. 283) is amended by striking out, wherever they occur in §§ 275.1 and 275.2, the terms "Commission" and "Maritime Commission" and inserting in lieu thereof "Federal Maritime Board" and by striking out, wherever they ocur in § 275.3, the terms "Maritime Commission" and "Commission" and inserting in lieu thereof "Maritime Administration"

PART 276—CONSTRUCTION-DIFFERENTIAL SUBSIDY REPAYMENT WHILE VESSELS NOT OPERATED IN FOREIGN TRADE

1. General Order 50 (§§ 276.1 and 276.2; 7 F R. 588) is amended by striking out "Commission" wherever it occurs therein, and inserting in lieu thereof "Maritime Administration"

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Effective date. This order shall be effective on the date of publication in the FEDERAL REGISTER.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*
LOUIS S. ROTHSCHILD, *Maritime Administrator*

DECEMBER 22, 1953.

[F. R. Doc. 53-10778; Filed, Dec. 28, 1953; 8:49 a. m.]

Subchapter C—Regulations Affecting Subsidized Vessels and Operators

[Gen. Order 22, Revised, Amdt. 1]

PART 282—UNIFORM SYSTEM OF ACCOUNTS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTORS

GENERAL ORDER OF MARITIME ADMINISTRATOR

It is hereby ordered, that the "proviso clause" appearing in and at the end of paragraph (a) *Uniform system of accounts for operating-differential subsidy contractors* of § 282.00 *General order of Maritime Administrator* (General Order 22, Revised) published in the FEDERAL REGISTER (15 F R. 7935) is amended to read as follows: *"Provided, however* That, Supplement No. 1 to General Order No. 22 adopted by the United States Maritime Commission on the eighth day of February 1940, as amended, 'Prescribing Accounting Procedure and Method of Applying Credits in Transactions under section 510 of the Merchant Marine Act, 1936, as amended' originally published in the FEDERAL REGISTER (5 F R. 647) shall remain in full force and effect."

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 21, 1953.

[SEAL] LOUIS S. ROTHSCHILD, *Maritime Administrator*

[F. R. Doc. 53-10773; Filed, Dec. 28, 1953; 8:48 a. m.]

[Gen. Order 22, Supp. 1, Amdt. 1]

PART 282—UNIFORM SYSTEM OF ACCOUNTS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTORS

GENERAL ORDER OF MARITIME ADMINISTRATOR

It is hereby ordered, that item 2 of Supplement 1 to General Order 22 originally published in the FEDERAL REGISTER (5 F R. 647) and which presently appears in a note to paragraph (a) of § 282.00 *General order of Maritime Administrator* (46 C. F R. 282.00) be deleted in its entirety and that a new item 2 be inserted in lieu thereof to read as follows:

2. Upon delivery of the "new vessel" to the contractor, the gross cost of such "new vessel" to the contractor, including the price fixed by the purchase contract, plus all interest charged the contractor on advances made by the Administration to the builder during the construction period, and any other charges properly capitalizable in accordance with sound accounting practices and principles, shall be recorded in *Account 331—Floating Equipment—Vessels,* without any deduction for the credit allowed by the Administration for the "obsolete vessel" This gross acquisition cost, together with the cost of subsequent betterments, shall be depreciated on the basis of a twenty (20) year economic life expectancy, except that with respect to a wholly or partially reconstructed or reconditioned vessel the life expectancy of which has been determined to be otherwise jointly by the Secretary of the Treasury and the Administration, depreciation shall be computed on the life expectancy so determined all in accordance with General Order No. 24, Second Revision, as amended (Part 284 of this chapter).

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 21, 1953.

[SEAL] LOUIS S. ROTHSCHILD, *Maritime Administrator*

[F. R. Doc. 53-10774; Filed, Dec. 28, 1953; 8:48 a. m.]

[Gen. Order 24, 2d Rev., Amdt. 1]

PART 284—VALUATION OF VESSELS FOR DETERMINING CAPITAL EMPLOYED AND NET EARNINGS UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

BASIS OF VALUATION

It is hereby ordered, that paragraph (f) *Adjustments for depreciation* of § 284.2 *Basis of valuation* of this part (Gen. Order 24, 2d Rev.) published in the FEDERAL REGISTER (14 F R. 7589) be deleted in its entirety and that a new paragraph (f) be inserted in lieu thereof to read as follows:

(f) *Adjustments for depreciation.* (1) Adjustments shall be made for depreciation on the basis of a twenty year economic life of the vessel computed from the date of final delivery upon completion of the vessel by the shipbuilder to the first owner thereof, except that with respect to a wholly or partially reconstructed or reconditioned vessel the life expectancy of which has been determined to be otherwise jointly by the Secretary of the Treasury and the Administration, depreciation shall be computed on the life expectancy so determined, and after deducting from the cost of acquisition of the residual value of such vessel, which residual value shall be deemed to be 2½ percent of the original construction cost (meaning the full domestic construction cost insofar as vessels constructed under Title V or Title VII of the Merchant Marine Act, 1936, are concerned) *Provided, however* That the residual value shall in no event exceed the cost of acquisition to the operator, determined as herein set forth: *And provided further* That the residual values of "war-built vessels" acquired from the Commission by purchase under section 4 or exchange under section 8 of the Merchant Ship Sales Act of 1946 or with respect to which the prior sales price is adjusted pursuant to section 9 of that act shall be deemed to be 2½ percent of the pre-war domestic cost thereof, as established by the Commission under the Merchant Ship Sales Act of 1946 and published in the FEDERAL REGISTER.

(2) Vessel depreciation shall be written off proportionately for the period between the date of acquisition with respect to which the cost of acquisition is determined pursuant to the provisions of this part and the date when the vessel becomes twenty years of age, except that with respect to a wholly or partially reconstructed or reconditioned vessel the life expectancy of which has been determined to be otherwise jointly by the Secretary of the Treasury and the Administration, depreciation shall be computed on the life expectancy so determined. In the case of a vessel the price of which is adjusted under Section 9 of the Merchant Ship Sales Act of 1946, the date of acquisition shall for the purpose of this paragraph be March 8, 1946, if the vessel was acquired by the operator on or before that date or the date of the original delivery of the vessel to the operator if contracted for prior to but delivered after March 8, 1946. The actual net cost of capitalizable betterments, reconstruction, or reconditioning shall be depreciated proportionately during the period between the end of the month during which such betterments, reconstruction, or reconditioning was completed and the end of the economic life of the vessel.

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 21, 1953.

[SEAL] LOUIS S. ROTHSCHILD, *Maritime Administrator*

[F. R. Doc. 53-10775; Filed, Dec. 28, 1953; 8:48 a. m.]

[Gen. Order 31, Amdt. 1]

PART 286—ESTABLISHMENT AND MAINTENANCE OF THE STATUTORY CAPITAL AND SPECIAL RESERVE FUNDS AND FOR THE DETERMINATION OF "CAPITAL NECESSARILY EMPLOYED IN THE BUSINESS" AND "NET EARNINGS"

NET EARNINGS

It is hereby ordered, that subparagraph (2) of paragraph (a) of § 286.3 *Net earnings* (General Order 31) published in the FEDERAL REGISTER (5 F R. 2352) be deleted in its entirety and that a new subparagraph (2) be inserted in lieu thereof to read as follows:

(2) Insofar as vessels are concerned, depreciation shall be computed in accordance with General Order 24, 2d Revision, as amended, and on the basis of the value at which the vessels are included in "capital necessarily employed"

(Sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114)

Dated: December 21, 1953.

[SEAL] LOUIS S. ROTHSCHILD, *Maritime Administrator*

[F. R. Doc. 53-10776; Filed, Dec. 28, 1953; 8:48 a. m.]

[Gen. Order 71, Amdt. 2]

PART 291—DEFINITION OF CAPITAL NECESSARILY EMPLOYED IN THE BUSINESS

DEFINITION OF CAPITAL NECESSARILY EMPLOYED IN THE BUSINESS

It is hereby ordered, that subparagraph (3) *Depreciation* of paragraph (a) *Ship equities* of § 291.5 *Definition of capital necessarily employed in the business*, published in the FEDERAL REGISTER (14 F. R. 7936) be deleted in its entirety and that a new subparagraph (3) *Depreciation* be inserted in lieu thereof to read as follows:

(3) *Depreciation.* From the amount determined pursuant to subparagraph (1) of this paragraph there shall be deducted depreciation accrued for the period beginning with the date of acquisition of the vessel by the contractor and terminating with the beginning of the accounting period, computed on the basis of a 20-year useful life from the date of the delivery of the vessel by the shipyard, or that portion of a 20-year useful life which remains unexpired as of the date of acquisition by the contractor, and from the amount determined pursuant to subparagraph (2) of this paragraph there shall be deducted depreciation computed on the basis of that portion of a 20-year useful life of the vessel which remains unexpired at the end of the month during which the capitalizable items are completed, except that with respect to a wholly or partially reconstructed or reconditioned vessel the life expectancy of which has been determined to be otherwise jointly by the Secretary of the Treasury and the Administration, depreciation of amounts determined pursuant to subparagraphs (1) and (2) of this paragraph shall be computed on the life expectancy so determined. Such depreciation with respect to capital expenditures shall not be deducted in determining "capital necessarily employed in the business" for the accounting period in which falls the date of completion, but depreciation from the end of such month of completion to the beginning of the next accounting period shall be taken into account for the purposes of such succeeding accounting period and all subsequent accounting periods thereafter.

(Sec. 607, 49 Stat. 2005, as amended; 46 U. S. C. 1117)

Dated: December 21, 1953.

[SEAL] LOUIS S. ROTHSCHILD, *Maritime Administrator.*

[F. R. Doc. 53-10777; Filed, Dec. 28, 1953; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 81, 86]

ESTATE AND GIFT TAXES

NOTICE OF PROPOSED RULE MAKING

Proposed amendment of Regulations 105 and Regulations 108 to conform to section 210 of the Technical Changes Act of 1953, 83d Congress, 1st Session.

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 210 of the Technical Changes Act of 1953 (67 Stat. 624) and sections 1029 and 3791 of the Internal Revenue Code (53 Stat. 157, 467, 26 U. S. C. 1029, 3791)

[SEAL] T. COLEMAN ANDREWS, *Commissioner of Internal Revenue.*

[Regulations 105 and 108]

PART 81—ESTATE TAX UNDER CHAPTER 3 OF THE INTERNAL REVENUE CODE, AS AMENDED

PART 86—GIFT TAX UNDER CHAPTER 4 OF THE INTERNAL REVENUE CODE, AS AMENDED

In order to conform certain provisions of Regulations 105 (26 CFR, Part 81) relating to estate tax and Regulations 108 (26 CFR, Part 86) relating to gift tax to section 210 of the Technical Changes Act of 1953, such regulations are amended as follows:

PARAGRAPH 1. Section 81.24 (a) (3) as proposed to be amended by notice of proposed rule making published August 5, 1953 (18 F. R. 4599), is further amended by adding at the end thereof the following:

Notwithstanding any other provision of law or of this section, property subject to a power described in § 81.47a (h) shall be considered as property with respect to which the decedent has a general power of appointment created after October 21, 1942, exercisable by deed or will, to the extent it was treated as an interest passing to the decedent as a surviving spouse and not passing to any other person for purposes of section 812 (e) under the rules prescribed in § 81.47a (h) and section 210 of the Technical Changes Act of 1953.

An interest in property will not be so considered unless an election by the decedent as a surviving spouse was filed in the manner prescribed in § 81.47a (h). Upon the filing of such an election, the periods of limitation provided in chapter 3 of the Internal Revenue Code on the making of an assessment and beginning of distraint or proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment and collection.

PAR. 2. There is inserted immediately before § 81.47a the following:

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948 (TECHNICAL CHANGES ACT OF 1953)

(a) *In general.* In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) The interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) No part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse.

Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) *Election.* The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) *Interest.* No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) *Effective date.* This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by

the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

PAR. 3. Section 81.47a, as proposed to be amended by notice of proposed rule making published August 5, 1953 (18 F R. 4599) is further amended as follows:

(A) By striking "(g)" in item (2) of the second paragraph of (a) and substituting "(h)" in lieu thereof.

(B) By substituting a comma in lieu of the word "and" in the second sentence of paragraph (b) (2) and by striking the period at the end of such sentence and adding thereto the following: "' and in the case of certain interests passing by will (whether or not in trust) from decedents dying after December 31, 1947, and on or before April 2, 1948."

(C) By substituting for the words "and (d)" in the third sentence of paragraph (b) (2) the following: " (d) and (h)"

(D) By substituting for the words "and (d)" in the first sentence of the second paragraph of (b) (2) the following: ", (d) and (h)"

(E) By inserting at the end thereof the following:

(h) *Certain interests passing by will from decedents dying after December 31, 1947 and on or before April 2, 1948*—(1) *In general.* Under the provisions of section 210 of the Technical Changes Act of 1953, property interests (whether or not in trust) which passed by will from decedents dying after December 31, 1947, and on or before April 2, 1948, shall, if the following conditions are met, be considered for the purposes of section 812 (e) (1) (A) as having passed from the decedent to the surviving spouse and will not be considered for the purposes of section 812 (e) (1) (B) as having passed from the decedent to any person other than the surviving spouse:

(i) The surviving spouse must be entitled for life to all the income from the property·

(ii) Such income must be payable annually or at more frequent intervals;

(iii) The surviving spouse must have the power to use and consume such portion of the property as she (or he) may need or desire for her (or his) comfort, support, and maintenance (or a broader power to use and consume)

(iv) The property must not be subject to a power in any other person to appoint any part thereof to any person other than the surviving spouse; and

(v) The surviving spouse must file an irrevocable election in the manner prescribed in subparagraph (2) of this paragraph.

The interest considered as passing to the surviving spouse under this paragraph shall be the value of the entire property to which the above conditions apply. However, amounts deducted under this paragraph may not be twice deducted from the decedent's gross estate. See § 81.47b (g) The rules prescribed in § 81.47a (c) (in the case of a trust with a power of appointment in the surviving spouse) for determining whether the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, shall be applicable in determining whether interests specified in this paragraph meet conditions (i) and (ii) enumerated above.

(2) *Election*—(i) *In general.* The provisions of subparagraph (1) of this paragraph shall apply only if the surviving spouse files an election in accordance with the following requirements: The election shall be in the form of a written statement, in duplicate, addressed to the district director in whose office the decedent's estate tax return was filed, and signed by the surviving spouse. It shall state the name of the decedent, the name and address of the surviving spouse, and shall contain a statement that such spouse elects to have the provisions of section 210 of the Technical Changes Act of 1953 apply. The statement shall specify and describe the property or interests included in the decedent's estate tax return to which the provisions of this paragraph are applicable. Such election must be placed in the mail at such a time that it would normally be received by the district director on or before August 15, 1954.

(ii) *Effect of election.* The exercise of the election referred to herein shall cause the property subject thereto to be treated as property as to which the surviving spouse had a general power of appointment exercisable by deed or will created on the date of death of the decedent. It may also operate to extend the periods of limitation for making an assessment and collecting any deficiency and interest resulting from the election. See § 81.24 (a) (3) and § 86.2 (b) (3) of this chapter.

(3) *Retroactive operation.* Where refund or credit of any overpayment resulting from the application of section 210 is prevented on August 15, 1953, or within one year from such date, by the operation of any law or rule of law (including a judicial determination but not including section 3760, relating to closing agreements, and not including section 3761, relating to compromises) refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed on or before August 15, 1954. No interest shall be allowed or paid on any overpayment resulting from the application of section 210.

PAR. 4. Section 81.47b is amended as follows:

(A) By substituting "(g)" for "(f)" in both the third and fourth sentences of paragraph (a)

(B) By inserting in paragraph (d) immediately at the end of the parenthetical sentence in example (ii) (before the closing parenthesis) the following: "As to cases in which a 'deductible interest' may exist where a life interest is coupled with a power in the case of interests passing by will from decedents dying after December 31, 1947, and on or before April 2, 1948, see paragraph (h) of § 81.47a."

(C) By inserting at the end thereof the following:

(g) *Double deductions disallowed in certain cases where decedent died on or before April 2, 1948.* No interest in property shall be allowed as a deduction under § 81.47a (h) to the extent it was allowed as a deduction under any other section of the Internal Revenue Code.

PAR. 5. Section 86.2 (b) (3), as proposed to be amended by notice of proposed rule making published August 5, 1953 (18 F R. 4602) is further amended by adding at the end thereof the following:

Notwithstanding any other provision of law or of this section, property subject to a power described in § 81.47a (h) of this chapter, relating to estate tax shall be considered as property with respect to which the donor has a general power of appointment created after October 21, 1942, exercisable by deed or will, to the extent it was treated as an interest passing to the donor as a surviving spouse and not passing to any other person for purposes of section 812 (e) under the rules prescribed in § 81.47a (h) of this chapter and section 210 of the Technical Changes Act of 1953.

An interest in property will not be so treated unless an election by the donor as a surviving spouse was filed in the manner prescribed in § 81.47a (h) of this chapter. Upon the filing of such an election, the periods of limitation provided in chapter 4 of the Internal Revenue Code on the making of an assessment and beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment and collection.

[F. R. Doc. 53-10737; Filed, Dec. 28, 1953; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[472.733]

FOOTWEAR WITH FIBER UPPERS AND COMPOSITION SOLES

PROSPECTIVE TARIFF CLASSIFICATION

DECEMBER 22, 1953.

It appears that footwear with raffia or sisal uppers and rubber-like composition soles, including so-called plastic and neolite-type soles, is properly classifiable under paragraph 1530 (e) Tariff Act of 1930, as modified, as footwear with uppers composed wholly or in chief value of vegetable fiber other than cotton with soles composed wholly or in chief value of india rubber or substitutes for rubber at the rate of 35 percent ad valorem on the American selling price. This is a rate of duty higher than that heretofore assessed under an established and uniform practice.

Pursuant to § 16.10a (d) Customs Regulations (19 CFR 16.10a (d)) notice is hereby given that the existing practice of classifying such merchandise under paragraph 1530 (e) as footwear with soles wholly or in chief value of materials other than india rubber, leather, or substitutes for rubber is under review in the Bureau.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of such footwear which are submitted in writing to the Bureau of Customs, Washington 25, D. C. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of this publication. No hearings will be held.

[SEAL] C. A. EMERICK,
Acting Commissioner of Customs.

[F. R. Doc. 53-10756; Filed, Dec. 28, 1953; 8:48 a. m.]

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1953, 94th Supp.]

PLANET INSURANCE CO.

SURETY COMPANY ACCEPTABLE ON FEDERAL BONDS

DECEMBER 22, 1953.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U. S. C. secs. 6-13, as an acceptable surety on Federal bonds. An underwriting limitation of $247,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D. C.

Name of company, location of principal executive office, and State in which incorporated: Michigan; Planet Insurance Company.

[SEAL] A. N. OVERBY,
Acting Secretary of the Treasury.

[F. R. Doc. 53-10757; Filed, Dec. 28, 1953; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE OF FILING OF PLAT OF SURVEY

EDITORIAL NOTE: A telegram was received by the Federal Register Division on December 21, 1953, from the Acting Manager, Fairbanks Land Office, stating that in Federal Register Document 53-10476, published on page 8462 of the issue for Thursday, December 17, 1953 the third paragraph should read:

Of the land described Section 18 and 19 and Lots 3, 4, 5, and 6 and the SW¼ of Section 20 are withdrawn by Public Land Order No. 386 of July 31, 1947, "for classification and survey" (Tok Junction Reserve.)

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration, Commodity Credit Corporation

GRAINS AND RELATED COMMODITIES

NOTICE OF FINAL DATE OF REDEMPTION UNDER WAREHOUSE-STORAGE LOANS MADE UNDER 1953 PRICE SUPPORT PROGRAMS

Unless earlier demand is made by CCC, warehouse-storage loans under 1953 Price Support Programs on the agricultural commodities designated in the table below mature and are due and payable on the dates indicated. Unless such loans are repaid on or before the final date for repayment specified below, or the producer notifies in writing either the PMA county committee or the PMA commodity office serving the area that the funds have been placed in the mail, CCC will purchase the commodities pursuant to the provisions of the note and loan agreement at the higher of (1) the loan value plus interest and charges or (2) the market value as determined by the appropriate PMA commodity office as of the close of the market on the final date for repayment. In the event such market value is in excess of the loan value plus interest and charges, the excess amount will be paid to the producer by the appropriate PMA commodity office.

Notwithstanding the foregoing provisions, if there is fraud or false representation by the producer in connection with the loan the purchase price applicable to such purchase by CCC shall be the market value only.

Commodity	Maturity date	Final date for repayment
Winter cover crop seed	Jan. 31, 1954	Feb. 1, 1954
Flaxseed in Arizona and California	do	Do.
Dry edible beans in Michigan and New York	Feb. 23, 1954	Mar. 1, 1954
Grain sorghums	Mar. 31, 1954	Mar. 31, 1954
Wheat	Apr. 30, 1954	Apr. 30, 1954
Oats	do	Do.
Barley	do	Do.
Rye	do	Do.
Flaxseed except in Arizona and California	do	Do.
Dry edible beans except in Michigan and New York	do	Do.
Rice	do	Do.
Soybeans	May 31, 1954	June 1, 1954
Corn	July 31, 1954	July 31, 1954

The PMA commodity offices and the areas served by them are shown below:

Chicago 5, Ill., 623 South Wabash Avenue; Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

Dallas 26, Texas, 3306 Main Street; New Mexico, Oklahoma, Texas.

Kansas City 6, Missouri, Fidelity Building, 911 Walnut Street; Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 8, Minnesota, 1006 West Lake Street; Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

New Orleans 16, Louisiana, Wirth Building, 120 Marais Street; Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee.

Portland 5, Oregon, 515 Southwest Tenth Avenue; Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.

(Sec. 4, 62 Stat. 1070 as amended; 15 U. S. C. Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 301, 401, 63 Stat. 1031; 15 U. S. C. Sup. 714c, 7 U. S. C. Sup. 1441, 1447, 1421)

Done at Washington, D. C., this 23d day of December 1953.

[SEAL] HOWARD H. GORDON,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-10779; Filed, Dec. 28, 1953; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 5896, 6305]

TRANS-PACIFIC AIRLINES, LTD., HAWAIIAN AIRLINES, LTD., MAIL RATES

NOTICE OF PREHEARING CONFERENCE

The consolidated mail rate proceeding, involving Docket Nos. 5896 and 6305, is hereby assigned for a prehearing conference on January 14, 1954, at 10:00 a. m., e. s. t., in Room 5132, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before Examiner Herbert K. Bryan

This notice cancels the previous notice assigning a prehearing conference in Docket No. 6305 for January 7, 1954.

Dated at Washington, D. C., this 23d day of December 1953.

[SEAL] FRANCIS W. BROWN, *Chief Examiner*

[F. R. Doc. 53-10781; Filed, Dec. 28, 1953; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2260]

COLORADO INTERSTATE GAS CO.

ORDER GRANTING REHEARING AND FIXING DATE OF ORAL ARGUMENT

On November 20, 1953, Colorado Interstate Gas Company (Colorado) filed an application for rehearing, pursuant to section 19 (a) of the Natural Gas Act (act) of the order of the Commission issued October 26, 1953, suspending, pursuant to section 4 of the act, certain proposed contracts with Public Service Company of Colorado and with the City of Colorado Springs, Colorado.

The order issued October 26, 1953, states that the filing appears to effect changes in the rates, classification, practices, terms and conditions of the service rendered by Colorado under its FPC Gas Tariff, Original Volume No. 1, and that the changes proposed by Colorado have not been shown to be lawful.

In its application for rehearing, Colorado alleges that the Commission has no authority to suspend the filing on the grounds that the contracts do not involve sales for resale and therefore are beyond the jurisdiction of the Commission; and that even if sales for resale are involved under such contracts they are sales for resale for industrial use only, and not subject to suspension pursuant to the provisions of section 4 (e) of the act.

In addition, Colorado requested a stay of the Commission's order issued October 26, 1953.

The Commission finds:

(1) It is necessary and appropriate to carry out the provisions of the Natural Gas Act to grant rehearing for the purpose of hearing oral argument as hereinafter ordered.

(2) The motion for stay of the order issued October 26, 1953 should be denied.

The Commission orders:

(A) The application filed on November 20, 1953, for rehearing of the order issued October 26, 1953, be and the same is hereby granted for the purpose of hearing oral argument on said application for rehearing.

(B) Oral argument be held before the Commission, commencing on January 12, 1954, at 10:00 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters and issues raised by the application for rehearing.

(C) Inasmuch as the proceeding at Docket No. G-2260, which includes the instant filing, has been set for January 12, 1954, the remainder of the proceeding at Docket No. G-2260 shall commence at the conclusion of the oral argument or as otherwise ordered by the Presiding Examiner.

(D) Parties who intend to participate in the oral argument shall inform the Secretary on or before December 31, 1953, of the time requested for presentation of their argument.

(E) The motion for stay of the order issued October 26, 1953, be and the same is hereby denied.

(F) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: December 16, 1953.

Issued: December 22, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-10740; Filed, Dec. 28, 1953; 8:46 a. m.]

[Docket Nos. G-2306, G-2311, G-2327, G-2328]

AMERICAN LOUISIANA PIPE LINE CO. ET AL.

NOTICE OF APPLICATIONS

DECEMBER 22, 1953.

In the matters of American Louisiana Pipe Line Company, Docket No. G-2306; Texas Gas Transmission Corporation, Docket No. G-2311, Michigan Wisconsin Pipe Line Company, Docket No. G-2327; Michigan Consolidated Gas Company, Docket No. G-2328.

Take notice that there have been filed with the Federal Power Commission by the persons and on the dates hereinafter designated several interdependent applications each for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the individual applicant to construct and operate certain natural gas facilities hereinafter described, all as more fully described in the respective interdependent applications.

American Louisiana Pipe Line Company (American Louisiana) a Delaware corporation having its principal place of business in Detroit, Michigan, by its interdependent application filed in Docket No. G-2306 on November 10, 1953, requests a certificate of public convenience and necessity authorizing the construction and operation of a 30-inch and 22-inch transmission pipeline system approximately 1,121 miles in length, three compressor stations of 10,000 horsepower each, and other appurtenant equipment and facilities. The 30-inch portion of the pipeline will extend from North Tepetate, Acadia Parish, Louisiana to a point of connection with the facilities of Michigan Consolidated Gas Company near Detroit, Michigan. The 22-inch portion of the pipeline will extend from a point on American Louisiana's proposed 30-inch pipeline near Payne, Ohio, to a point of connection with the facilities of Michigan Wisconsin Pipe Line Company near Bridgman, Michigan. Near Slaughters, Kentucky, American Louisiana's proposed line will be connected with the pipeline of Texas Gas Transmission Corporation, from which American Louisiana proposes to purchase an average of 51,000 Mcf of natural gas per day. American Louisiana proposes, also, to construct two 24-inch pipelines extending from Krotz Springs, St. Landry Parish, Louisiana, and Lowry, Cameron Parish, Louisiana, to a junction point at North Tepetate, Acadia Parish, Louisiana, approximately 47.1 miles and 34.8 miles respectively.

The proposed pipeline system will have an initial capacity of approximately 300,000 Mcf per day, and American Louisiana proposes to purchase an average daily volume of 255,700 Mcf from various fields in southern Louisiana, and an average daily volume of 51,000 Mcf from Texas Gas Transmission Corporation. American Louisiana proposes to make available the natural gas to all the markets served by the American Natural Gas Company system, of which system American Louisiana is a subsidiary.

The estimated cost of construction of the facilities proposed in Docket No. G-2306 is $130,000,000 and American Louisiana proposes to finance the construction thereof by issuing $97,500,000 principal amount of 4½ percent First Mortgage Bonds, $12,000,000 principal amount of Interim Notes convertible to Preferred Stock at the option of American Louisiana with interest or dividend rate of 5½ percent, and $20,500,000 of Common Stock of $100 par value per share.

Simultaneously with the filing of American Louisiana's application, Texas Gas Transmission Corporation (Texas Gas) a Delaware corporation having its principal place of business in Owensboro, Kentucky, on November 10, 1953, filed in Docket No. G-2311 its interdependent application (necessary and proper to the completion of American Louisiana's application) for a certificate of public convenience and necessity authorizing the construction and operation of: Approximately 48.20 miles of 26-inch pipeline, in segments of various mileage, to loop presently unlooped portions of Texas Gas present pipeline system between its Lake Cormorant (6) compressor station in Mississippi, and its Slaughters (10) compressor station in Kentucky; one additional 1,500 compressor engine to be installed at Covington (No. 7) compressor station in Kentucky and a sales meter station near Slaughters, Kentucky, for the proposed sale of natural gas to American Louisiana.

The estimated cost of construction of the facilities proposed in Docket No. G-2311 is $4,281,135, and Texas Gas proposes to finance the construction thereof from cash on hand and through a term bank loan.

Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), a Delaware corporation having its principal place of business in Detroit, Michigan, on December 9, 1953, filed in Docket No. G-2327 its interdependent application (necessary and proper to the completion of the applications filed in Docket Nos. G-2306 and G-2311) for a certificate of public convenience and necessity authorizing the construction and operation of. Approximately 251.9 miles of 24-inch, 18-inch, 12-inch, 6-inch, and 4-inch pipeline loops, and 3,400 additional horsepower at existing compressor stations, principally in Illinois.

Michigan Wisconsin proposes to purchase approximately 100,000 Mcf of natural gas per day from American

Louisiana to meet the present and future requirements of the markets which it serves.

The estimated cost of construction of the facilities proposed in Docket No. G-2327 is $11,435,000, and Michigan Wisconsin proposes to finance the construction thereof by issuing $6,500,000 principal amount of 4 percent First Mortgage Bonds and from cash on hand.

Michigan Consolidated Gas Company (Michigan Consolidated) a Michigan corporation having its principal place of business in Detroit, Michigan, on December 9, 1953, filed in Docket No. G-2328 its interdependent application (the remaining interdependent application necessary and proper to the completion of the applications filed in Docket Nos. G-2306, G-2311 and G-2327) for a certificate of public convenience and necessity authorizing the construction and operation of: Facilities and appurtenances necessary in conjunction with the operation of the Six Lakes Field, located in Mecosta and Montcalm Counties in Michigan, as a storage field including a proposed compressor station in the field with approximately 32,000 horsepower; a station to receive approximately 200,000 Mcf of natural gas per day at the point of connection between its facilities and the proposed facilities of American Louisiana near Detroit, Michigan; and approximately 25.5 miles of 12-inch pipeline from a point of connection with the facilities of Michigan Wisconsin near Sparta, Michigan, to City of Muskegon, Michigan.

Michigan Consolidated estimates that the Six Lakes Field, when fully developed, will have a total storage capacity of approximately 66,000,000 Mcf and a working storage capacity of approximately 53,000,000 Mcf.

The estimated cost of the facilities proposed in Docket No. G-2328, is $12,745,900, and Michigan Consolidated proposes to finance the construction thereof from general annual construction budgets over a four-year period.

Protests or petitions to intervene in any of the above designated matters may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 11th day of January 1954.

The foregoing applications are on file with the Commission and open to public inspection.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 53-10738; Filed, Dec. 28, 1953; 8:46 a. m.]

[Project No. 2145]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

DECEMBER 22, 1953.

Public notice is hereby given that Public Utility District No. 1 of Chelan County, Washington, having its office and principal place of business at Wenatchee, Washington, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for preliminary permit for proposed water-power Project No. 2145 to be located on Columbia River in Chelan and Douglas Counties, Washington, and consisting of a concrete gravity dam having a spillway section 1,192 feet long, an intake and powerhouse section integral with the dam 1,390 feet long and an earth-fill section creating a reservoir with pool at normal elevation 699 extending 41 miles upstream; a fish ladder on each bank of the stream and provision for future navigation locks; a powerhouse with an initial installation of nine units, each turbine rated at 106,000 horsepower and direct-connected to a generator rated at 65,000 kilowatts at 83 feet gross head and provisions for an ultimate installation of 14 units; a switchyard; and appurtenant facilities. The preliminary permit, if issued, shall be for the sole purpose of maintaining priority of application for a license under the terms of the Federal Power Act for the proposed project.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 28th day of January 1954. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 53-10739; Filed, Dec. 28, 1953; 8:46 a. m.]

HOUSING AND HOME FINANCE AGENCY

COMMISSIONER, COMMUNITY FACILITIES AND SPECIAL OPERATIONS

DELEGATION OF AUTHORITY WITH RESPECT TO PERFORMANCE OF CERTAIN FUNCTIONS IN CONNECTION WITH APPROVED DEFENSE COMMUNITY FACILITIES PROJECTS

1. The Commissioner, Community Facilities and Special Operations (hereinafter called "Commissioner") is hereby authorized to take the following actions, on behalf of the Housing and Home Finance Administrator (hereinafter called "Administrator") in connection with defense community facilities projects to be financed in whole or in part by the Housing and Home Finance Agency under the authority of Public Law 139, 82d Congress (Defense Housing and Community Facilities and Services Act of 1951, approved September 1, 1951, 42 U. S. C., 1946 ed. Sup. V 1591-1592o) as amended, or as it may be amended (hereinafter called the "Act")

a. Waive compliance with special conditions in any contracts (including amendatory, supplementary and superseding contracts) with public and nonprofit agencies, entered into under the authority of the Act for the financing of defense community facilities projects, where it is determined that the Government's interests will not thereby be jeopardized, and authorize payments under any such contracts;

b. Decrease the amount of any grant allotment, provided, however, that no major change in project scope is involved;

c. Approve changes in project financing involving increases in the amount of financial participation by the applicant;

d. Take all other actions requisite or needed in the administration of the program authorized under the Act with respect to the financing of defense community facilities projects, except the approval of proposed projects, the allocation of loan and grant funds therefor, and any actions which would result in an increase in the approved total project cost or in allocated loan or grant funds respectively, or in a major change in project scope; and

e. Redelegate any of the authority herein delegated to such officers and employees of the Office of the Administrator as he may select.

2. This delegation of authority is not intended to revoke, repeal or supersede in any way the delegation, effective May 1, 1952, to Regional Representatives, of authority to take various actions in connection with defense community facilities projects, which was published at 17 F. R. 4469 (May 15, 1952)

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 65 Stat. 293, 305 (1951), as amended, 42 U. S. C., 1946 ed. Sup. V 1591-1592o; E. O. No. 10236, 16 F. R. 10103-6 (October 4, 1951); 62 Stat. 1268, 1283-85 (1948), as amended, 12 U. S. C., 1946 ed. Sup. V 1701c; 63 Stat. 413, 440 (1949), 12 U. S. C., 1946 ed. Sup. V 1701d-1)

Effective this 29th day of December 1953.

ALBERT M. COLE, *Housing and Home Finance Administrator.*

[F. R. Doc. 53-10753; Filed, Dec. 28, 1953; 8:47 a. m.]

REGIONAL REPRESENTATIVES, REGION II (ATLANTA) REGION III (CHICAGO), AND REGION V (SAN FRANCISCO)

DELEGATION OF AUTHORITY TO PERFORM FUNCTIONS IN CONNECTION WITH DEFENSE HOUSING AUTHORIZED UNDER HHFA REGULATION CR 2

1. The Regional Representative of Region II (Atlanta) Region III (Chicago) and Region V (San Francisco) Office of the Administrator, Housing and Home Finance Agency, each is hereby authorized in his respective region to take any action which it is necessary or appropriate for the Housing and Home Finance Administrator to take in the administration of HHFA Regulation CR 2, as amended February 27, 1952 (17 F. R. 1721), or as hereinafter amended, with respect to releasing applicants or their successors from their obligations under CR 2:

(a) to hold for rent structures containing one-family or two-family dwelling units, and

(b) to exclusively offer dwelling units to eligible defense workers.

2. The Regional Representative of such Region II, Region III, and Region V each is hereby further authorized to redelegate the authority delegated under the foregoing section numbered 1 to one or more officers or employees under his administrative jurisdiction.

3. This delegation supersedes the delegation of authority effective August 14, 1952 (17 F. R. 7401) to Special Representatives McClellan Ratchford, John McCollum, and Lindley R. Durkee or his designee, with respect to the administration of HHFA Regulation CR 2, which delegation is hereby revoked.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C., 1946 ed. Sup V 1701 c; 64 Stat. 812–822 (1950), 50 U. S. C. App., 1946 ed. Sup V 2131; 65 Stat. 392 (1951), 42 U. S. C. Sup V 1591; secs. 501, 502 and 902 E. O. 10161, Sept. 9, 1950, 15 F. R. 6106; paragraph 3, E. O. 10296, Oct. 2, 1951, 16 F. R. 10103; HHFA CR 1, March 6, 1951, 16 F. R. 2231)

Effective as of the 29th day of December 1953.

ALBERT M. COLE,
Housing and Home Finance Administrator

[F. R. Doc. 53-10754; Filed, Dec. 28, 1953; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28771]

CAST IRON PIPE FROM LONE STAR, TEXAS TO POINTS IN TEXAS

APPLICATION FOR RELIEF

DECEMBER 23, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Lee Douglass, Agent, for the Kansas City Southern Railway Company Louisiana & Arkansas Railway Company, and Texas & Northern Railway Company.

Commodities involved: Cast iron pipe and fittings, carloads.

From: Lone Star, Texas.

To: Specified points in Texas.

Grounds for relief: Competition with rail carriers, circuitous routes, and to meet intrastate rates.

Schedules field containing proposed rates: Lee Douglass, Agent, I. C. C. No. 807, supp. 34.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 53-10746; Filed, Dec. 28, 1953; 8:46 a. m.]

[4th Sec. Application 28772]

WOODPULP FROM KRANNERT, GA., TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

DECEMBER 23, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Woodpulp, in carloads.

From: Krannert, Ga.

To: Points in official and Illinois Territories.

Grounds for relief: Rail competition, circuity to apply rates constructed on the basis of the short line distance formula, and additional origin.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1260, supp. 52.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 53-10747; Filed, Dec. 28, 1953; 8:46 a. m.]

[4th Sec. Application 28775]

WHOLE CORN AND RELATED ARTICLES FROM IOWA AND MINNESOTA TO POINTS IN WESTERN TRUNK-LINE TERRITORY

APPLICATION FOR RELIEF

DECEMBER 23, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Whole corn and articles taking same rates, carloads.

From: Points in Iowa and Minnesota.

To: Points in western trunk-line territory.

Grounds for relief: Rail competition, circuity.

Schedules filed containing proposed rates: W. J. Prueter, Agent, I. C. C. No. A-3306, supp. 94.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 53-10750; Filed, Dec. 28, 1953; 8:47 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[ODM (DPA) Request No. 1—DPAV-2 (d)]

PLAN AND REGULATIONS OF THE ARMY ORDNANCE INTEGRATION COMMITTEE ON OPTICAL FIRE CONTROL

NOTICE OF WITHDRAWAL OF REQUEST TO PARTICIPATE

The Army Ordnance Integration Committee on Optical Fire Control formed pursuant to section 708 of the Defense Production Act of 1950, as amended, has been dissolved and accordingly the request published in 16 F. R. 1965 on March 3, 1951, to participate in the formation and activities of that Committee in accordance with the Voluntary Plan entitled "Plan and Regulations of Ordnance Corps Governing Optical Fire Control Integration Committee" transmitted and accepted by those companies listed in the FEDERAL REGISTER (16 F. R. 1965, 16 F. R. 3315, 16 F. R. 6806, 17 F. R. 8754) has been withdrawn.

The immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act heretofore granted to those companies has been likewise withdrawn, except as to those acts performed or omitted by reason of the request which occurred prior to that withdrawal.

(Sec. 708, 67 Stat. 129, Pub. Law 95, 83d Cong., E. O. 10480, August 14, 1953, 18 F. R. 4939)

Dated: December 23, 1953.

ARTHUR S. FLEMMING,
Director

[F. R. Doc. 53-10820; Filed, Dec. 24, 1953; 12:31 p. m.]