DIARY

Book 86

Tax Revision Studies, 1937 - Volume VI

Tax Revision Studies, 1937: Volume VI

Excise Taxes

VOLUME VI

Tax Revision Studies, 1937

EXCISE TAXES

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Summary and Recommendations

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE Aug 31 1937

TO Mr. Magill

FROM Mr. Haas

Subject: TAX REVISION STUDIES, 1937 - EXCISE TAXES

Summary of Findings and Recommendations

The accompanying memorandum examines in some detail the place of excise taxes (other than those imposed on liquor, tobacco and oleomargarine) in the immediate and more distant Federal tax structure. The more significant of the conclusions are as follows:

(1) Excise taxes have been enacted during practically every critical period in Federal fiscal history and their utilization during the last depression involves no innovation.

(2) During the past five years excise taxes have played a significant but declining role in the Federal Government's tax revenues and, with the increased yield of direct taxes, their relative importance is certain to decline further.

(3) Generally speaking, excise taxes other than those imposed for regulatory purposes are less desirable than progressive direct taxes and, so far as possible, should be replaced by a system of direct taxes. Other considerations, however, point to the desirability of retaining some measure of indirect taxation in the permanent tax structure.

(4) The retention of excise taxes is necessitated by the fact that the broadening of direct taxes to reach the smallest of income groups is not feasible or economically justifiable. Excise taxes, therefore, may justly be assigned a permanent place in the tax structure, viewed as supplements to the income tax and designed in part to bolster depression revenues but more particularly to supplant direct taxes on the lower income groups.

(5) The case for the permanent inclusion of excise taxes in the tax structure is further strengthened by considerations of revenue stability. During periods of depression individuals in the higher income groups frequently have a minimum or no taxable income and are thus freed of income tax liability, producing wide fluctuations in income tax collections, rendering the stabilizing qualities of indirect taxes indispensable.

(6) Present and anticipated near-future revenue requirements preclude the immediate wholesale elimination of excise taxes. Governmental functions initiated or expanded by the Federal Government during the recent depression, bid fair to remain permanent and burdensome features of the budget for some time, thus raising revenue requirements above pre-depression levels and necessitating some recourse to excise taxation.

(7) While excise taxes cannot be dispensed with, it must be conceded that the present system of excise taxation is deficient in that it contains a number of individual taxes which are inequitable in their incidence, complex in administration, and conflicting with other governmental imposts, without being substantial revenue producers. The system also contains other taxes, regulatory in character, which have outlived their usefulness. In consequence, the existing tax structure could be markedly improved by the elimination of the least desirable excises.

(8) The required revision of the existing excise tax structure should be governed by consideration of (a) productivity, (b) incidence, (c) equity, (d) ease of administration, (e) effect upon economic enterprise, and (f) effect upon State and local taxation, in the light of present and probable future revenue needs.

(9) On the basis of these considerations, repeal of certain of the excise taxes, ranked in three successive groups, is recommended as follows:

Excise taxes recommended for repeal

Item	Tax	Fiscal year 1936 Collections	Number of taxpayers
	Group I		
	(1) Regulatory taxes no longer required	$ 1,008,273.85	40
1	(a) Brewer's wort	38,751.80	406
2	(b) Gasoline produced or refined from natural gas	563,766.88	694
3	(c) Sale of crude petroleum	561,235.89	400
4	(d) Refining of crude petroleum		
	(2) Taxes on commodities in common use	4,823,967.94	6,100
5	(a) Toilet preparations (the 5 percent tax)	577,925.70	50
6	(b) Cameras	807,279.40	40
7	(c) Chewing gum	3,321,057.14	2,100
8	(d) Furs	5,075,270.82	300
9	(e) Radio parts	7,110,188.33	2,600
10	(f) Automobile accessories		
	(3) Import taxes (more properly to be treated under the tariff laws)	1,500,000.00*	1/
11	(a) Imports of certain oils, etc.	5,684,000.00*	1/
12	(b) Imports of copper, coal, and lumber	7,281,000.00*	1/
13	(c) Imports of crude petroleum, etc.		
	Total	38,352,717.75	12,730
	Group II (Recommended for repeal subsequent to Group I)		
14	(a) Processing of certain oils	27,691,080.79	340
15	(b) Mechanical refrigerators	7,939,063.75	100
16	(c) Matches	7,106,359.21	50
17	(d) Sporting goods	5,531,122.72	1,200
18	(e) Auto trucks, etc.	7,000,000.00*	950 2/
19	(f) Firearms, shells and cartridges	2,494,574.54	100
20	(g) Safe deposit boxes	1,997,409.57	10,600
	Total	59,759,610.58	13,340
	Group III (Recommended for repeal subsequent to Groups I and II)		
21	(a) Electrical energy	33,575,179.25	2,400
22	(b) Telephone, telegraph, cable and radio messages, etc.	21,098,347.65	460
23	(c) Lubricating oils	27,102,831.57	455
	Total	81,776,358.47	3,315
	Grand total	$179,888,686.80	29,385

*, Approximated.
Not available.
2/ Includes manufacturers of other automobile chassis, etc.

(10) The existing tax structure could be further improved both in productivity and equity by amending statutory provisions covering certain of the excise taxes, as follows:

(a) Tax on stock sales or transfers--to replace the present tax by changing the base and imposing a 1/4 of 1 percent tax determined on the value of the transaction.

(b) The 10 percent tax on toilet preparations--to include those who prepare or package toilet preparations in the form in which they are to be sold to the consumer for consumption or use.

(c) Tax on ticket brokers--to limit present 10 percent rate to excess charges not exceeding 75 cents, and to increase such rate to 25 percent on excess charges over 75 cents.

(d) Tax on admissions and dues--to extend the liability for the tax to anyone responsible for the collection of the tax but fails to do so, whether wilfully or otherwise.

(e) Tax on admissions to night clubs--to increase rate to a flat 2 percent of total admission charges.

(f) Tax on sporting goods--pending its repeal, to define more clearly articles liable to the tax.

(g) Tax on radio parts--pending its repeal, to be revised so as to apply only to completed radio sets, with provision for allowance of tax-free sales of parts.

(11) The regulatory taxes (other than those listed in Group 1 on the preceding page - "Regulatory taxes no longer required"), the documentary stamp taxes, the admissions taxes and the taxes on dues and initiation fees should be retained in the permanent tax structure.

(12) In the event of pressing revenue needs, the scope of excise taxation could conceivably be extended to numerous commodities and services not now taxed. However, the taxable items which have greatest revenue producing potentialities consist of commodities and services which are everyday necessities to the masses of the population. Taxes imposed upon them would fall most heavily on segments of the population possessing the least economic ability. Notwithstanding the herein contained recommendation for decreasing reliance upon excise taxation, sight

should not be lost of the possibilities of continuing to derive the same amount of excise revenue in a more desirable manner than is accomplished by utilization of some of the excise taxes now in effect. For this reason, if the loss of revenue inherent in the repeal of those excises enumerated in Group I should have to be recouped through other indirect taxes, the list of excise taxes could be extended to include tractors and trailers, radio stations, and wagers on horse and dog races.

(13) No detailed consideration is given in this memorandum to the revision of the liquor, tobacco, and oleomargarine excises. The retention of the taxes on liquor and tobacco are indicated because of their well established and significant position in the Federal tax structure. The tax on oleomargarine is of a regulatory nature and is predicated on non-fiscal considerations of a character which for the present were not evaluated.

Introduction

Historical Background

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE AUG 31 1937

TO Mr. Magill

FROM Mr. Haas

Subject: Tax Revision Studies, 1937 - Excise Taxes

A. Introduction

The taxes herein considered constitute that group of taxes generally denominated as excises. In the revenue law, (Titles IV and V of the Revenue Act of 1932) they are classified as manufacturers' excise taxes, documentary stamp taxes, and miscellaneous excise taxes. With the exception of the levies imposed on liquor, tobacco and oleomargarine, the discussion embraces all of the excise taxes in effect at the present time. This group of levies accounted for approximately $538,000,000, or 15.6 percent of internal revenue collections in the fiscal year 1936.

Specifically, the problem involved is the desirability of retaining in their present form, or in a modified form, some or all of these taxes in (1) the permanent and (2) the more immediate Federal tax structure, viewed in the light of economic principles and in the light of the Federal Government's revenue needs. Accordingly, the examination of each of these levies takes cognizance of (a) productivity, (b) incidence, (c) equity, (d) ease of administration, (e) effect upon economic enterprise and (f) effect upon State and local taxation.

B. Historical Background

At the outset it should be noted that the existing excise taxes, though mostly depression additions, represent no departure in Federal taxation practice. The history of excise taxation in the United States is largely the history of emergency Federal financing. Excise taxes have been collected almost without exception during every critical period in American Federal finance. They were employed in 1791, in 1812, in 1862, in 1898, and in 1914. Their introduction in 1932 was thus in conformity with well-established precedent.

In the first experiment with excise taxation conducted by Alexander Hamilton, taxes were imposed on liquor, tobacco, snuff, carriages, sales at auction, and on various legal instruments. These imposts, enacted on March 3, 1791, yielded approximately $520,000 by 1799. Three years later, with the end of the Federalist administration, they were repealed.

Existing
Excise Taxes

Excise taxes were adopted for a second time during the War of 1812. The articles taxed included carriages, sugar, liquors, legal instruments, bank notes, bonds, sales at auction, and retail sales license taxes on wines and liquors. Their yield reached a maximum of $5,000,000 in 1816. With the coming of post-war prosperity in 1817 all these taxes were repealed.

The third use of excise taxes was provoked by Civil War revenue needs. The levies imposed by the Act of 1862 included license taxes on trades, taxes on malt and distilled liquors, various levies (virtually turn-over taxes) on manufactures, and products. Subsequent laws broadened the scope of the Act, the most comprehensive being the Act of 1864. Some rate increases were made in 1865 contributing to the $236,000,000 collected from these sources (exclusive of income and inheritance taxes) during 1866. In the next four years, however, the system was gradually contracted. By 1870, the most burdensome taxes were withdrawn and by 1873 all, with the exception of the taxes on liquor and tobacco, were discontinued.

The war with Spain was the next occasion for the expansion of the internal taxes and for advances in rates. In 1898 nearly all rates on liquor and tobacco were doubled, and special taxes were imposed on bankers, brokers, proprietors of theaters, and other places of amusement. Stamp taxes were imposed on issues and sales of corporation securities, bank checks, bills of exchange, telephone and telegraph messages, insurance policies and other instruments, patent medicines, toilet articles, chewing gum and wine. In 1902, with the passing of the emergency, all of these taxes were repealed.

The fifth large scale enactment of excise taxes is attributable to the World War. The Act of October 22, 1914, increased the rates on beer and wine and levied special taxes on bankers, brokers, theaters and other amusement places, tobacco manufacturers and tobacco dealers. A series of stamp taxes was applied to various documents as well as cosmetic and toilet goods. Subsequent revenue acts added taxes on transportation and other facilities of commerce, admissions and dues, and on a long list of articles of general consumption. Collections reached a peak in 1920 with a total in excess of $800,000,000. After the War, most of these taxes were abolished, excepting those designed for regulatory purposes and those imposed on tobacco, admissions, distilled spirits and other alcoholic beverages.

C. Existing Excise Taxes

The need for Federal revenue during the last depression directed attention once more to excise taxes. As a result, in 1932, (Revenue Act of 1932, Titles IV and V) there was enacted a large group of manufacturers' excise and other miscellaneous taxes. These taxes,

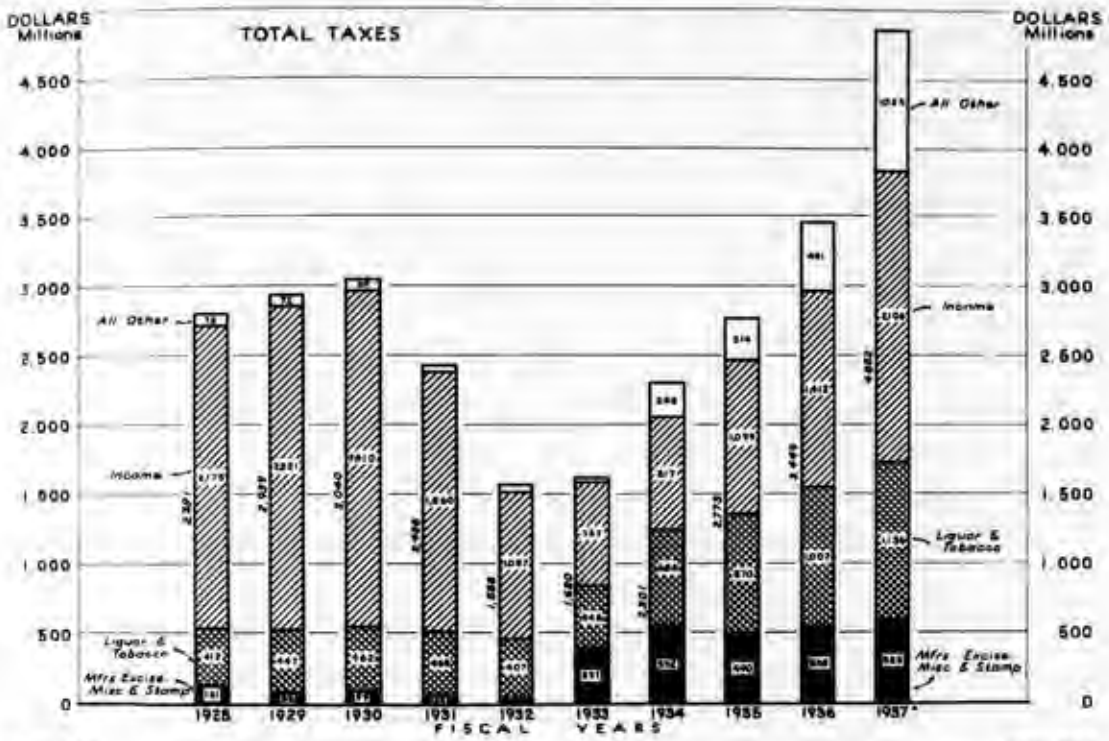
originally limited to one year here, with some exceptions, renewed in 1933, 1935, and 1937. Title IV covered a long list of commodities including lubricating oils, automobiles and parts, tires, furs, toilet goods, jewelry, radios, mechanical refrigerators, sporting goods, cameras, matches, candy, chewing gum, soft drinks, electrical energy, gasoline, and imports of coal, crude petroleum and products, lumber and copper. The miscellaneous group (Title V) included taxes on telegraph, telephone, cable and radio messages, admissions, issues and transfers of stocks and bonds, deeds, sales of produce for future delivery, transportation of oil by pipe line, safe deposit boxes, checks and boats. In 1934, 1935, and 1936, the list was enlarged by the addition of such items as crude petroleum, fire arms, silver bullion and specified oils and seeds. The taxes on checks, candy, soft drinks, jewelry and boats have been discontinued. All the rest, with exceptions of some designed for regulatory purposes, will either expire or revert to lower rates in 1939. Public Resolution No. 48, 75th Congress, approved June 29, 1937.

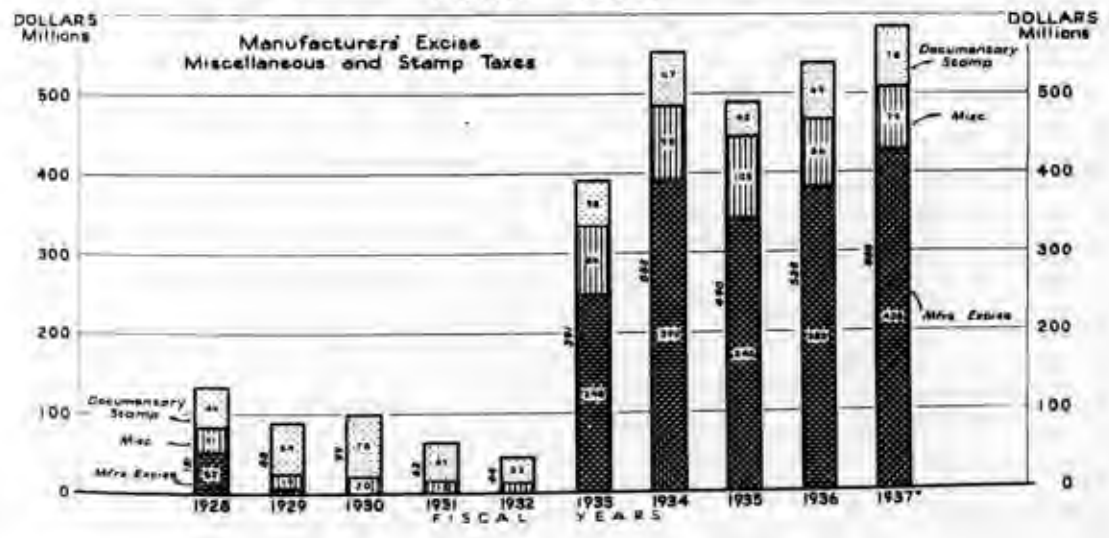
The three groups of excises generally classified as manufacturers' excise taxes, miscellaneous taxes and stamp taxes, with the exception of those imposed on oleomargarine, alcoholic beverages and tobacco, produced approximately $44,000,000, $391,000,000, $552,000,000, $490,000,000 and $538,000,000 during the fiscal years 1932, 1933, 1934, 1935, and 1936, respectively. (See Chart 1.) Their relative importance in all internal revenue rose from 2.8 per cent in 1932 to almost a quarter of the total in 1933 and 1934 but, partly as a result of a reduction in the tax rate on gasoline and in part because of the increase in the yield of direct taxes, declined to 17.7 percent in 1935 and 15.6 percent in 1936. Reference to Chart 2 will reveal that excise taxes have played a significant but declining role in the Federal Government's tax revenues during the past five years. Their relative importance is certain to decline further even without additional limiting legislation. With a continued rise in national income and property values and with the passage of sufficient time to make the 1935 estate rate increases fully operative, direct tax receipts bid well to dwarf collections from these miscellaneous sources. Furthermore, some of the more objectionable excise levies, as hereinafter indicated, are likely to be limited in scope if not wholly repealed. At all events the contrast drawn by Carl Shoup in 1934* to the effect that "from the revenue standpoint the Federal tax system in 1929-30 resembled that of England, whereas today it resembles that of one of the great indirect-taxing countries, France" is gradually losing its significance.

*Memorandum to the Secretary entitled "Manufacturers' Excise and Special Taxes."

Chart 1.

INTERNAL REVENUE RECEIPTS
By Sources



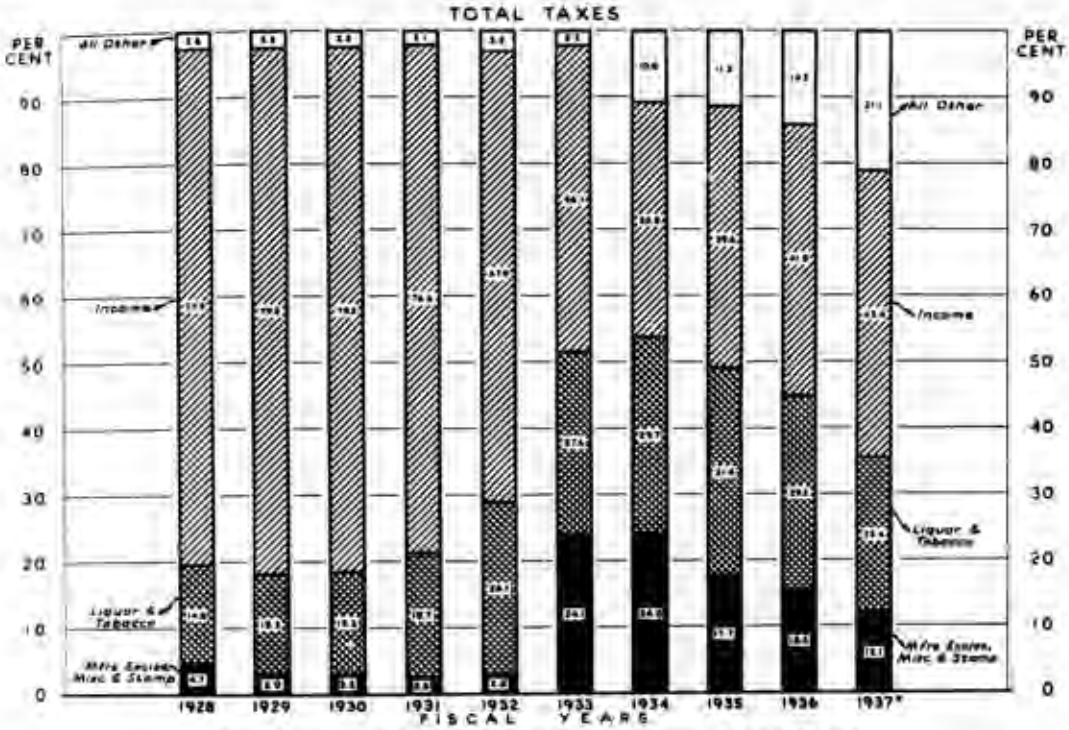


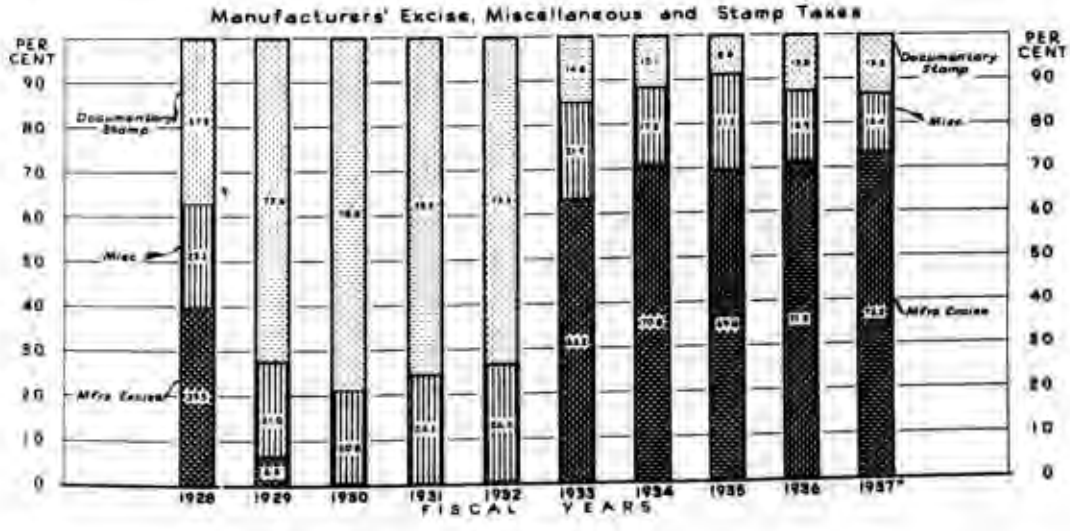
*1937 estimated

Chart 1.

PERCENTAGE DISTRIBUTION OF INTERNAL REVENUE RECEIPTS

By Sources





*1937 estimated.

Economics of
Excise Taxes

D. The Economics of Excise Taxes

Accepted principles of taxation require that in so far as practicable and barring regulatory requirements or assessments for the benefit of special groups, a tax system be consistent with the ability to pay principle. The problem is readily resolved with respect to direct taxes. These are presumed to be borne by those on whom they are levied in the first instance and their burden is therefore distributable in accordance with predetermined standards of ability to pay. With respect to indirect taxes, however, the requirement is more complex and confusing. The tax is levied on a commodity, service or privilege. Where the incidence of that tax ultimately falls is not always clear or predictable.

In general, excise taxes involve an increase in the cost of production. Since the tax is an addition to the cost of producing the article, producers will seek to recompense themselves by corresponding price increases. Failing to do so, their profits will be curtailed and the production of the article will diminish. Some producers will remove their capital to untaxed industries. Production will be further curtailed by the elimination of the marginal producers. The imposition of the tax also has the effect of hindering the investment of new capital.

In general, it may be maintained that the shifting of the tax burden will be at a maximum in the case of those commodities for which there is a relatively inelastic demand, and the price of which is not set by monopolistic conditions. This broad category includes those commodities which are used by the vast majority of the people and by virtue of that circumstance are capable of producing the greatest amount of revenue. Since these are articles in common use, largely consumed by the lower income classes, most excise taxes are regressive in effect.

On the basis of a consideration of their incidence alone, it seems clear that excise taxes are less desirable than progressive direct taxes and, so far as possible, should be replaced by a system of direct taxes. The substitution of additional income taxation for excise tax revenue may be achieved by lowering exemptions, by increasing existing rates, or by both. The first of these would tend to place a burden upon those whose tax bill is now almost wholly confined to indirect taxes; the second would shift it from the low income group to those with higher incomes. Since, however, substantial lowering of exemptions to reach the smallest of incomes is not feasible or economically justifiable, it follows that, from a standpoint of incidence, the repeal of excise taxes cannot be counterbalanced merely by an increase in the income tax rates. Such an attempt will, of necessity, involve the shifting of the present tax burden from the shoulders of the poor to the middle classes and the well-to-do.

Presumably, if personal income taxes could be extended downward to reach lowest income groups, the principle of ability to pay could find satisfactory application. Practical considerations, however, conspire to render that goal unattainable. Some reductions in income tax exemptions could be effected, to be sure, but the process is not likely to be carried to a stage where it will extend the operation of the ability to pay principle to the lowest strata of the self-supporting population. In view of that fact, the abolition of all indirect taxes would be tantamount to the removal of all tax burden from the lowest income groups and, incidentally, some from the higher income groups insofar as they continue to consume previously taxed commodities. The latter is particularly significant during periods of depression when individuals in the so-called "higher income groups" enjoy no taxable income and are thus freed of income tax liability.

The indicated undesirability of excise tax elimination, together with its accompanying destructive effect upon revenue stability needs no demonstration. In consequence, excise taxes may be viewed as supplements to the income tax, designed in part to bolster depression revenue and supplant income taxes on the lower income groups. This procedure is not likely to lead to serious inequities. Consumption in the lower income groups is virtually identical with income. Barring investments in insurance policies, savings are practically nonexistent. Under such circumstances, a system of excise taxation wide in scope and fairly uniform in severity which aims to impose a burden proportional to the volume of consumption and by the same token proportional to the volume of income is desirable.

For these reasons there is no economic defense for eliminating excise taxes summarily, but rather there is justification for inquiring into each of them with a view to ascertaining their relative merits. In the light of the desirability of achieving a tax structure consistent with the ability theory, it seems advisable to first analyze the types of commodities which are taxed, according to the income levels of their users.

In general, as indicated in Carl Shoup's previously cited memorandum, excise taxes fall into four broad categories:

(1) Taxes on articles that are used almost exclusively by the wealthy (leases of boxes, dues, admissions to night clubs, etc.).

(2) Taxes on articles in use by the middle classes to a considerable degree as well as by the wealthy (admissions, cameras, refrigerators, etc.).

(3) Taxes on articles in general use by all classes save the very poorest (toilet articles, playing cards, etc.).

(4) Taxes on necessities used by all classes (matches, soap, etc.).

Because of its limited application, the first of these groups cannot yield very much revenue. From point of view of productivity, attention therefore must be directed toward the other three groups. On the other hand, considerations of equity point to selection on another basis and suggest that the articles segregated for taxation should include first, luxuries, and second, those commodities whose consumption it is desired to regulate. However, the elimination of all excises except those levied on the aforementioned two types of articles would involve the loss of the greatest part of the $581,000,000 revenue derived from manufacturers' excise, miscellaneous and stamp taxes during the calendar year 1936. Under present circumstances a procedure involving so great a loss of revenue is not deemed advisable. Instead piecemeal revision suggests itself.

The considerations governing such revision are several. Thus, in the case of any specific tax it is important to inquire into the administrative problems surrounding it. This is particularly true of excise taxes because of the number and diversity of commodities and services taxed. No categorical answer can be given as to whether they are administratively desirable. Some present practically no administrative problems. Such is the case with the tax on gasoline sales where 1,100 returns represent over 177 million dollars in revenue, or about $161,000 per return, with practically no evidence of evasion or avoidance. At the other extreme may be mentioned the tax on furs yielding a little over $3,000,000, paid by some 2,100 taxpayers, and causing constant investigation and litigation.

Cognizance must also be taken of the possible conflict of these Federal taxes with other Federal taxes and especially with various State and local taxes. Federal-State fiscal relations have reached a regrettable point of incoordination. During the past 25 years both the Federal tax system and those of the several States have evolved haphazardly without regard for one another. Friction with reference to the division of tax sources and governmental functions and with respect to the taxation of each other's instrumentalities have strained Federal-State fiscal relations. The contributions of recent Federal excise taxation in this connection are especially important, for, while the States are prepared to recognize that the integration of such important matters as income taxation and governmental functions is hard to resolve, they are less charitably inclined with respect to the recent Federal taxes on individual commodities which, they claim, react upon general and selected State sales taxes but have secondary revenue significance to the Federal Government.

Governmental requirements are usually in excess of available revenue. This is truer today than it has been ever before. The recent depression witnessed the expansion of many Government services begun during previous depressions and the initiation of an even greater quantity of new services. These bid fair to remain permanent features of the Federal budget. In view of that fact, there is little prospect for revenue abundance in the near future, and while the conclusion of Carl Shoup to the effect that

> "In general, taxes discussed in this memorandum should be retained only in an emergency. Few, if any, of them are suitable for use as permanent elements in the fiscal system."

should be endorsed, that endorsement must be tempered by a recognition of the time element which may be involved in the passing of the "emergency." Pending the passage of that "emergency," a wholesale and immediate discarding of all excise taxes would be ill advised. Instead, present attention should be directed to piece-meal revision, to the elimination or modification of those taxes which are least desirable. In that manner inequity can be markedly reduced without a serious impairment of revenue.

Some attention should also be devoted to the possibility of imposing excise taxes upon commodities and services not now taxed with a view of either supplementing or supplanting present revenues.

To recapitulate, the selection of the various excises for retention or repeal must of necessity be governed by the five considerations heretofore discussed, namely, (1) productivity, (2) incidence, (3) ease of administration, (4) effect upon economic enterprise, and (5) effect upon other Federal and upon State and local taxes. Accordingly, in the following section each of these excise taxes are examined in the light of the above enumerated considerations.

The accompanying table presents the items taxed, together with the rates and yields for the fiscal year 1936, and estimated yields for the fiscal years 1937 and 1938.

For more detailed discussion of each of the taxes, see Appendix A, being "Reports of the Miscellaneous Tax Unit upon the History and Application of Various Miscellaneous Taxes" prepared by the Bureau of Internal Revenue at the request of the Division of Research and Statistics and submitted on November 5, 1936. There are contained therein detailed analyses of the statutory background, revenue yield, economic basis, conflict and administration of the several taxes. The studies are primarily factual, emphasizing the historical background of the respective taxes, their yields, the number of taxpayers concerned, methods of avoidance utilized and the administrative problems encountered. On the basis of these analyses, a series of recommendations were offered. These recommendations together with the Bureau's experience with these taxes were reconsidered in the light of the economic analyses in the present memorandum, the final findings being the conclusions cited on pages 27-30 below.

Attention is called to the order of the analysis. Where possible, taxes on similar commodities or services, e.g., automotive, admissions, documentary stamps, are treated together. In all other cases an attempt has been made to treat the individual taxes in the order of their appearance in the law.

Analysis of
Individual Taxes

Automotive
Group

E. Analysis of the Individual Taxes

1. The Automotive Group:

From the point of view of productivity, the most important group of excises are those imposed indirectly upon the operation and directly upon the manufacture, production, importation or sale of motor vehicles and automotive products. Eleven in number, the yield of these levies during 1936 ranged from $39,000 in the case of the tax imposed upon gasoline recovered from natural gas to $177,000,000 from the tax imposed on gasoline sales.

Federal Automotive Tax Collections
Fiscal Year 1936

Taxes 1/	Amounts (In thousands of dollars)
Gasoline, sales 2/	$177,340
Gasoline, recovered from natural gas 3/	39
Total	$177,379 4/
Automobiles and motorcycles	$ 48,201
Trucks, etc.	7,000
Automobile accessories, etc.	7,110
Tires and tubes	32,208
Total	$ 94,519
Lubricating oil, sales 2/	$ 27,103
Total	$ 27,103 5/
Crude petroleum, sales 3/	$ 564
Crude petroleum, processing or refining 3/	561
Crude petroleum, etc., imports 2/	7,166
Crude petroleum, transportation of, by pipe line 2/	9,794
Total	$ 18,087
Grand total	$317,088

1/ Unless otherwise noted the tax will lapse on July 31, 1939.
2/ Lapses on June 30, 1939.
3/ Continues until specifically repealed.
4/ Exclusive of tax on import of gasoline.
5/ Exclusive of tax on import of lubricating oil.

Manufacturers' Excise, Miscellaneous and Documentary Stamp Taxes, Rates, Collections for the Fiscal Year 1936 and Estimated Collections for the Fiscal Years 1937 and 1938

MANUFACTURERS' EXCISE TAXES

Tax	Present rate of tax	Yield, fiscal years (000) 1936	1937 (estimated)	1938 (estimated)
Gasoline	1¢ per gallon	177,340	176,000	204,000
Automobiles and motorcycles	3% of selling price	48,331	65,800	58,200
Electrical energy	3% of selling price	39,575	46,500	46,800
Tires and tubes	2½¢ and 4¢ per pound, respectively	32,800	46,300	47,000
Lubricating oil	4¢ per gallon	27,103	31,500	35,300
Toilet preparations	10-20% of selling price according to type of product	13,302	15,000	15,360
Mechanical refrigerators	2% of selling price	7,439	9,800	11,100
Automobile parts or accessories	3% of selling price	7,110	7,900	9,300
Automobile trucks and chassis	2% of selling price	7,000	8,250	8,500
Sporting goods	10% of selling price	6,886	7,000	7,200
Radio sets, etc.	4% of selling price	5,331	7,600 1/	7,950 1/
Athletic balls of fur	3% of selling price	4,722	6,000	7,000
Firearms, shells, etc.	10% of selling price	2,495	2,600 2/	3,300 2/
Brewers' wort and malt syrup	1½¢ per gallon, ¾¢ per pound	1,008	900	900
Chewing gum	2% of selling price	807	900	960
Tobacco and leaves	10% of selling price	478	- 1/	- 1/
Subtotal		378,479	435,330	465,510
Imports of:				
Crude petroleum, etc.	4¢ per gallon	7,152	Not available	Not available
Coal, coke, etc.	10¢ per 100 pounds	2,437	"	"
Oxides and other metallic minerals, etc.	3% ad valorem or 4¢ per pound, ¾¢ per pound, 1¢ per pound	2,105	"	"
Lumber	$1 per M. Feet	1,143	"	"
Paraffin and other petroleum wax products	1¢ per pound	113	"	"
Gasoline, lubricating oil	2½¢ per gallon, 4¢ per gallon	Not available	"	"
Subtotal		12,965 3/	"	"
Total		391,444 3/	435,330 4/	465,510 4/

Note: The following taxes are of a purely regulatory nature and will continue until repealed: Narcotics (Harrison) Narcotic Act, as amended; adulterated butter (Act of May 9, 1902); process or renovated butter (Act of May 9, 1902); mixed flour (Act of June 13, 1898); filled cheese (Act of June 6, 1896); oleomargarine (Act of August 2, 1886, as amended); white phosphorous matches (Act of April 9, 1912); cotton futures (United States Cotton Futures Act, August 18, 1914); circulation of State bank notes (Sections 11 and 25, Act of February 3, 1875); firearms and ammunition taxes (National Firearms Act, as amended). The total yield of these taxes for the fiscal year 1936 was $2,779,691, of which $2,708,604 was collected from the taxes on ammunition.

1/ Includes estimated collections on casings and leaves because separate data are not available.
2/ Includes estimated collections on pistols and revolvers.
3/ Exclusive of collections on imports of gasoline and lubricating oil.
4/ Exclusive of estimated collections on import taxes.

MISCELLANEOUS TAXES

Tax	Present rate of tax	Yield, fiscal years (000) 1936	1937 (estimated)	1938 (estimated)
Telephone, telegraph, radio, cable facilities, leased wires	10¢-30¢ according to amount of charge, 5¢ on amount charged, 10¢ per message, 5% of amount charged	21,050	24,000	25,400
Admissions				
Admissions to any place	1¢ for every 10¢ over 40¢	15,591		
Theatre admission charges made by proprietors	10% of excess	10		
Dances admission charges and at clubs other	10% of excess	117		
than street cafes, etc.			19,200	20,000
Leases of boxes in theatres, etc.	10% of established price for which similar seats or boxes are sold	80		
Admissions to roof gardens, etc.	10¢ for each 50¢ or fraction of admission charge	1,339		
Fixed domestic processing of coconut oil, sesame oil, palm oil, palm kernel oil and sunflower oil	3¢ per pound 5/	27,985 6/	11,500	11,300
Transportation of oil by pipe line	5% of transportation charge	9,756	10,700	11,600
Club dues and initiation fees	10% of amount paid	6,981	6,700	7,400
Use of safe deposit boxes	10% of amount charged	1,797	2,000	2,000
Crude petroleum:				
Producers	1/20 of 1¢ per barrel	364		
Refined or converted in United States	1/20 of 1¢ per barrel	561	1,000	1,000
Gasoline refined or recovered from natural gas	1/20 of 1¢ per barrel	9		
Firearms:				
Importers or manufacturers	$200 per year	1	Not available	Not available
Dealers	$200 per year	4	"	"
Pawnbrokers	$200 per year	- 7/	"	"
Transfer of firearms	$200 per year	- 7/	"	"
Imports of:				
Animal oils:				
Whale oil (except sperm oil), fish oil (except cod liver oil and halibut liver oil), marine mammal oil, or any combination of the foregoing, etc.	3¢ per pound	800	"	"
Sunflower, rapeseed, sesame, hempseed, and perilla oils, etc.	4½¢ per pound	Not available	"	"
Beeswax, vegetable wax, imported, except wax, sesame seed	2¢ per pound	"	"	"
Pistols and revolvers	10% of selling price	8	"	"
Total		85,000 8/	75,400 9/	78,800 9/

DOCUMENTARY STAMP TAXES

Tax	Present rate of tax	Yield, fiscal years (000) 1936	1937 (estimated)	1938 (estimated)
Transfer of capital stock	1¢ per $100 par or face value or fraction; or if without par or face value 2¢ per share. However, if selling price is $20 or over, whether with or without par or face value rate is 5¢ in lieu of 4¢	33,095	34,400	38,400
Issues of capital stock	10¢ per $100 face value or if without face value: (a) if actual value is less than $100, 2¢ on each $20 or fraction, (b) if actual value is over $100, 10¢ on each $100 or fraction	38,153 10/	34,000 10/	37,000 10/
Issues of bonds	10¢ per $100 face value or fraction thereof			
Transfer of bonds	1¢ per $100 face value			
Deeds of conveyance	Value: $100-$500, 50¢, each additional $500 or fraction, 50¢			
Sale at prices for future delivery	2¢ per $100 or fraction	7,944	4,000	5,000
Playing cards	10¢ per pack containing not more than 52 cards	4,344	4,600	4,500
Silver bullion sales or transfers	50% of amount by which selling price exceeds cost plus allowed expenses	626	500	175
Passage tickets	Costing $10-$20, $1 " $20-$40, $2 " more than $40, $5	- 11/	- 11/	- 11/
Foreign insurance policies	2¢ per $1 or fraction of the premium charged	- 11/	- 11/	- 11/
Total		80,000	77,600	87,075

1/ 5¢ per pound if coconut oil was not produced wholly in the Philippine Islands or any possession of the United States, or was not wholly from materials grown or produced in such possessions or was not imported before June 30, 1934, or was not purchased under a bona fide contract entered into prior to April 30, 1934, or was not produced from materials so produced.
2/ Includes $25,000,000 allocated to Philippine Islands trust fund account.
3/ Collections amounted to $202 for transfer of firearms and $800 from the special tax on pawnbrokers.
4/ Exclusive of collections on imports of sunflower, rapeseed, sesame, hemp, kenaf and perilla oils, etc.
5/ Exclusive of estimated collections on firearms and import taxes.
6/ Includes collections on passage tickets and foreign insurance policies because separate data are not available.
7/ Not separately available.

Sources: Annual Report of the Commissioner of Internal Revenue for 1936 and The Budget of the United States Government for the fiscal year ending June 30, 1938.

(1) Gasoline sales:

The most productive of the excise taxes here under consideration is the one cent gallonage levy imposed on the sale of gasoline. The tax is payable by the producer or importer on the sale or use of gasoline and was originally imposed by Section 617 of the Revenue Act of 1932. For the latter half of 1933, (June 17 to December 31) the rate was temporarily increased to 1½ cents per gallon but since the end of that year has been consistently imposed at its initial rate. Collections amounted to $203,000,000 in 1934, $162,000,000 in 1935, and $177,000,000 in 1936.

The gasoline tax, being collected at the relatively few distribution centers, is easily administered. The Bureau of Internal Revenue reports only minor attempts at tax avoidance or evasion. This, together with its high productivity, renders it a desirable source of Federal revenue. Other considerations, however, particularly the magnitude of other automotive taxes and conflict with other Federal taxes and with State and local levies, should be weighed before judgment is passed on the long-run desirability of this tax.

The incidence of the gasoline tax is on the motor fuel consumer and while, according to economic surveys made by the Petroleum Economics Division of the United States Bureau of Mines, gasoline consumption has not been adversely affected, it may not be out of order to inquire whether motor vehicle users as a class are not excessively burdened. It will be recalled that in addition to the Federal levies, they are also subject to State registration fees, State and local gasoline taxes and drivers' permits which, collectively, account for approximately $1,500,000,000, or 1/10 of all Federal, State and local tax revenues. If, on the other hand, it is held that automotive taxes are imposed solely for the benefit of highway users then it is important to recognize that annual highway expenditures in the United States are still in excess of the yield of the numerous automotive taxes.

Of important significance is the conflict which may be presumed to exist between the Federal tax on gasoline sales and that imposed by all of the States and not a few local governmental units. State taxation of gasoline was initiated by Oregon in 1919 and was rapidly adopted by all of the other States. Today the rates range from 2 cents per gallon in Missouri, and the District of Columbia to 8 cents in Florida. In some of the States additional levies are imposed by counties and/or cities, not infrequently bringing the total gallonage tax in excess of 10 cents. Gasoline taxes have thus acquired a prominent place in the revenue structures of State governments, accounting on the average for a third of all State tax receipts. With this source of revenue as primary security, State governments have issued several billion dollars worth of highway bonds, approximately $3,000,000,000 of which are now outstanding, whose necessary servicing precludes the possibility of State withdrawal from the gasoline taxation field.

While the preemption of this field of taxation by the States cannot be denied, some credence may be given to the contention that the imposition of the Federal levy is exclusively for the benefit of those taxed, since its proceeds are less than adequate to finance Federal highway grants to States. The argument that the system of Federal aid was well established before the imposition of the Federal levy and that it is predicated upon the nation's interest in good roads for postal and military purposes, is somewhat weakened by the States' unwillingness to relinquish Federal highway aid even though the national system of roads may be said to be adequately established.

Consideration of all factors involved points to the advisability of appraising the case for the Federal gasoline tax without regard to the system of grants-in-aid. Since its imposition was predicated upon emergency considerations and with full recognition of the preemption of the field by State governments, the withdrawal of the Federal Government from the field should be retained as the ultimate objective when fiscal circumstances make such a step feasible. In the interim, the continuation of the Federal tax on gasoline sales appears to be desirable.

(2) Gasoline produced from natural gas;

(3) Sale of crude petroleum;

(4) Refining of crude petroleum:

The three enumerated taxes were originally enacted upon the recommendation of Secretary of the Interior Ickes, in conjunction with that provision of the National Industrial Recovery Act, which prohibited the shipment of petroleum or its products in excess of State quotas in interstate and foreign commerce. These taxes were clearly regulatory in character. The rates were fixed originally at 1/10 cent per barrel of 42 gallons, but have since been reduced to the nominal rate of 1/25 of 1 cent. Inasmuch as the objectives of these levies, the control of oil production and distribution, have been declared unconstitutional, no necessity remains for their continuance. Taxes such as these enter into industrial cost and generally result in an increase in price to consumers. Their regressive nature, together with their outlived utility as regulatory measures and their negligible revenue yield, contributing during 1936 only $1,000,000, point to the desirability of their elimination.

(5) Automobile and auto truck chassis and bodies and motorcycles;

(6) Accessories for automobiles, trucks and motorcycles;

(7) Tires and inner tubes:

These three items represent an annual revenue of approximately $100,000,000. Specific attention is called to the levy on auto trucks, yielding approximately $7,000,000, which tends to be

incorporated in selling price and thereby becomes a cost of production to all industry utilizing auto trucks, affecting the price of various unrelated articles. Most of the other items in the group, however, have proven satisfactory for tax purposes. For the most part they are borne by those who use the articles and have not affected the industries adversely; there has been little tax evasion or avoidance; and the cost of compliance has been moderate. These taxes may, therefore, be recommended for continuance.

Attention should be directed, however, to the possible elimination of the tax on automobile parts and accessories. Although this tax is fairly productive, yielding annually in excess of $7,000,000, it has certain objectionable features in that it partially duplicates the tax on completed cars. It may thus be considered as a tax upon the misfortunes of a motorist who finds it necessary to replace damaged or worn-out parts. These considerations, together with the facts that the tax is widespread in application and involves administrative difficulties in connection with the classification of specific articles as automobile parts or accessories, depending upon whether such articles are primarily adapted for the use of automobiles, suggest the advisability of its elimination. Attention, however, may be directed to the desirability of modification of the taxes on automobiles and trucks, primarily with the purpose of including freight trailers and tractors in the definition of automobile trucks; and, similarly, for including passenger trailers in the definition of passenger automobiles. See discussion under Section F-a.

(3) Sale or use of lubricating oil:

The four cent gallonage tax on lubricating oil dates from 1932 and is producing approximately $27,000,000 per annum. It doubtless affects the price of the commodity and is thus weighted against the general public. There is no direct conflict with other Federal taxes, though certain of the Federal taxes have sufficient bearing upon lubricating oil to be considered in connection with this tax.

Several States have imposed some form of excise tax on certain types of oils. However, no information is available regarding the extent to which these State taxes conflict with the Federal tax. The Internal Revenue Bureau reports no administrative difficulties. In view of these considerations it is concluded that no immediate necessity exists for repealing the tax on the sale or use of lubricating oils. It is more properly classed with that group of taxes which should receive only secondary consideration for discontinuance.

Admissions
Group

(9) Imports of crude petroleum, gasoline, refined petroleum, and products:

These taxes, first introduced in 1932, present no greater inequities and produce no more administrative difficulties than do the other automotive taxes. Consideration, however, should be given the fact that they may properly be classed as customs duties rather than excise taxes and ought therefore be treated under the tariff laws. This, together with their small revenue yield, points to the desirability of their discontinuance as excise taxes.

(10) Transportation of crude petroleum by pipe line:

This tax was first imposed in 1917 at the rate of 3 percent, increased to 8 percent in 1918, and repealed in 1922, only to be enacted anew at a 4 percent rate under Section 731 of the Revenue Act of 1932. It is payable by the person furnishing the transportation service. The pipe line transportation business is an integral division of the oil and gasoline industry. The greater part of crude petroleum liquid products produced or imported into the United States is transported by pipe lines. Crude petroleum and its liquid products are subjected to a variety of State and local taxes. There has been practically no evasion or avoidance of this tax and the tax has not affected the use of this means of transportation. Its administration is relatively simple and the cost of collection is believed to be comparatively low. In view of these considerations it may be recommended that the tax on pipe line transportation be continued.

II. The Group of Admissions Taxes

Taxes on admissions are well established in the Federal tax system, having been collected uninterruptedly since the World War, and at present represent approximately $17,000,000 in annual revenue. Admissions to places of amusement are also subject to taxation by many State governments. All amusements are subject to taxation in only comparatively few States. These are Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Utah, Washington, and West Virginia. In the case of about 30 States admissions taxes are limited to such specific classes of amusements as boxing, wrestling, and racing. To the extent to which admissions are taxed by States the Federal levies may be said to be duplicated, producing some degree of conflict. From the point of view of the States' revenue, however, admissions taxes are of minor significance since their collective annual yield does not exceed $10,000,000.

It is submitted that the entire group of admissions taxes may be considered for permanent inclusion in the Federal tax structure. As will be indicated below, the general admissions tax exempts those admissions which are likely to affect the majority of those in the lower income brackets and where the tax factor may affect theater attendance. Its continuance in permanent form would, therefore, cause no inequity. The other taxes imposed on admissions fall clearly into the categories of either luxury taxes or regulatory taxes. As such they too are suitable for permanent retention.

(11) Amounts paid for admission to any place:

This tax on admissions originally enacted during the War and retained since in modified form is levied at the rate of one cent for each 10 cents in excess of 40 cents. Unless amended, the present 40 cent exemption will expire on June 30, 1939, and will be replaced by an exemption of $3. The tax is an excise tax payable by the persons paying admission charges, and therefore affects the public directly.

It should be noted that the exemption of 40 cents covers the usual admission charge to motion picture theaters. Motion picture representatives appearing before the Senate Committee in 1932, testified that out of 14,329 motion picture theaters in operation, only 1,214 charged a top admission price of 50 cents and that only in the case of 500 (including vaudeville) did the fee range from 50 cents to $1.00. In the case of 13,115, or 92 percent of the total, even top admission fees amounted to less than 50 cents. (Revenue Hearings, Senate Finance Committee, 1932, pp. 1200-1202.) Thus the tax does not affect the majority of theater-goers, and those purchasing admissions costing more than 40 cents can hardly be considered subject to an undue tax burden. It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxed precludes the use of substitutes to escape the tax. Partly as a result of 20 years experience with the tax, the Bureau reports little administrative difficulty aside from an occasional failure, possibly because of ignorance of the provisions of the law, to collect the tax upon amounts paid for admissions.

In view of the preceding considerations, it is recommended that this tax be maintained at its present rate and with the present exemption, but that the administrative provisions of the law be amended to provide that any person who, regardless of the reason, fails to collect the tax upon amounts paid for admissions shall be liable for the tax. Under the existing statute liability is chargeable only in the cases of proven "wilful failure" to collect the tax.

(12) Tickets of admissions sold at places other than the ticket office of the theater, etc.:

(13) Excess admission charges made by proprietors, managers, or employees of theaters, etc.:

These taxes were imposed to curtail excessive charges for admission tickets. They act as regulatory measures and therefore should be continued. In 1932 the then existing tax on ticket brokers' sales of 5 percent on the first 75 cents of the excess over the established price and 50 percent of the amount by which the excess charge exceeded 75 cents was changed to a straight 10 percent of excess charge (Section 711) on the grounds that the previous tax had penalized ticket brokers. It is believed that it would be desirable to control excessive charges for tickets of admissions more effectively than is possible under present law. It is therefore suggested that the present statute be amended so as to limit the present 10 percent tax to excess charges of not more than 75 cents over established price plus the amount of admissions tax and to increase the tax to 25 percent on excess charges over 75 cents.

(14) Use or lease of seats or boxes in opera houses, etc.:

The tax on the use or lease of seats or boxes in opera houses, theaters, etc., is imposed at the rate of 10 percent of the amount for which a similar box or seat is sold for each performance or exhibition, at which the box or seat is used or reserved by or for such lessee or holder. This tax is imposed on an item which may be classed as a luxury, and has been in effect almost without change since 1917. It is not believed that there has been any retarding of trade or curtailment of business due to this tax, and it has not been responsible for any administrative difficulties. Experience gained during the past 20 years has simplified the tax collection process. It is therefore recommended that the tax be continued in force.

(15) Admissions to night clubs, etc.:

Like the tax on the lease of boxes, this tax is a luxury tax and payable by those who can afford to enjoy such luxury. The tax has not hindered business and it is recommended that it be continued, subject to amendment indicated below.

The tax, as imposed at present, is at the rate of 1½ cents for each 10 cents of 20 percent of the amount paid for refreshment, services, or merchandise, provided that such 20 percent exceeds 50 cents. In effect this means a tax of 1½ cents for each $2.50 or fraction of full amount of charge if such charge exceeds $2.50. It has in many cases been the cause of difficulty to determine what part of the total admission fee represents a charge for admission and what part is attributable to entertainment or food. It is

Documentary
Stamp Taxes

therefore recommended that the tax as now imposed be changed to the rate of 2 percent and be made to apply to the amount received by proprietors or operators of such establishments for refreshment and service, as well as for entertainment furnished their patrons.

III. The Group of Documentary Stamp Taxes

(16) Sales or transfers of stock and similar interests:

Transfers of stock and similar interests have been subject to taxation since 1919. The basic rate is that imposed by Title VIII of the Revenue Act of 1926, namely, 2 cents on each $100 of the par or face value of the certificate or fraction thereof, or 2 cents on each share in the case of no par stock. Section 723 of the Revenue Act of 1932, however, temporarily increased these rates from 2 to 4 cents, with the further provision that in the case of stocks selling at $20 or more per share, the rate shall be 5 cents instead of 4 cents. These 1932 rates have been thrice reenacted and will revert to the 1926 rates after July 1, 1939.

During the fiscal year 1936 the Federal stock transfer tax yielded $33.1 million. Collections during the current year are expected to be somewhat higher. These figures compare with $15.7 million for 1935 and $33.2 million for 1933. During the period when the transfer tax was 2 cents per $100 of par value, annual collections ranged from approximately $10 million in relatively inactive years to $46.7 million during the peak year, 1930.

It will be observed that the stock transfer tax is largely independent of the value of the financial transaction involved, being generally based upon nominal par value. The only other determining factor is whether selling price is above or below $20. In consequence, the burden of the tax generally varies inversely with the selling price of the security, and its yield depends upon the volume of trading. As was pointed out in a memorandum to Secretary Morgenthau, dated January 21, 1937, the tax considered in relation to the amount of money involved in the transaction may and often does become very small in the case of stocks quoted at a high price per share or in the case of stocks with a small par value quoted under $20 a share, and often does become very large in the case of stocks of $100 par value or of no par value quoted at a low absolute price per share. Consider the following examples:

	Market	Par	Tax	Tax/Market
Homestake Mining	366	$100	5.00¢	.0137%
Kelsey-Hayes Wheel "B"	18-1/8	1	.04	.0022
Seaboard Air Line (common)	2	n.p.	4.00	2.0000

The tax on Seaboard Air Line, it will be noted, is 146 times as large in proportion to the amount of money involved as the tax on Homestake and 909 times as large as the tax on Kelsey-Hayes Wheel "B". There thus appears to be both a great inequity and a great loss of revenue in the present scale of taxation. This inequity and the accompanying loss of revenue can be rectified by the substitution of a stock transfer tax based on the value of the financial transaction involved. Such a stock transfer tax base is now employed in Great Britain.

The rate at which such a tax should be imposed depends in part upon revenue requirements and in part upon social objectives. The British tax is imposed at approximately 1 percent. It has been estimated that a flat tax of 0.106 percent of the market value of stocks transferred would, during the current calendar year, yield approximately the same amount of revenue as the present law. A somewhat higher rate, however, appears to be desirable, partly for revenue considerations and partly as a precaution against possible stock price declines. At all events a rate moderately higher than 1/10 of 1 percent is not likely to prove unduly burdensome to security trading.

In determination of the rate, consideration should also be given to the probable effects of an increased transfer tax upon the volume of transactions and stock speculative activity in general. It has been strongly urged in some quarters that speculative activity should be discouraged and that that goal could be obtained through a substantial stock transfer tax.

Accordingly, it is recommended that (a) to insure the present yield of the stock transfer tax during possible periods of severely declining stock prices, (b) to increase such yields under present prices, and (c) to provide a minor deterrent to speculative security trading, the existing tax on stock transfers be permanently replaced by a tax based on the value of the financial transaction and imposed at approximately 1/4 of 1 percent.

Other Documentary Stamp Taxes

(17) Issues of bonds;
(18) Transfers of bonds;
(19) Issues of capital stock;
(20) Passage tickets;
(21) Foreign insurance policies;
(22) Deeds of conveyance;
(23) Sales of produce for future delivery;
(24) Playing cards;
(25) Documentary stamps sold by post offices;
(26) Silver bullion transfers.

The documentary stamp taxes now in effect represent an important source of revenue. Exclusive of those from the stock transfer tax already discussed, collections during the fiscal year 1936 amounted to $36,000,000, distributed as follows:

Bonds of indebtedness, issues and transfers; issues of capital stock, passage tickets, foreign insurance policies, deeds of conveyance	$24,869,524
Sales of produce for future delivery	2,943,542
Playing cards	4,143,699
Documentary stamp sales by post offices	3,293,134
Silver bullion transfers	685,188
Total	$35,935,087

All of these taxes, with the exception of the impost on silver bullion transfers which was imposed under the Silver Purchase Act of 1934, and the taxes on conveyances and transfers of bonds imposed by the Revenue Act of 1932, have been in effect since 1926 and have caused no administrative difficulties. With the exception of the taxes on passage tickets, foreign insurance policies, playing cards, and transfers of silver bullion, the above stamp taxes now in effect are subject either to discontinuance or change in rate or base after June 30, 1939.

Whether the imposition of a tax on financial transactions has detrimental effects on the volume of such transaction, and if it does, whether such result is necessarily undesirable, is subject to conjecture. The continued and almost universal use of such levies in foreign countries points to a negative conclusion.

In view of the facts that all of these taxes are paid by the relatively well-to-do, are not excessive, do not directly affect the public at large, yield a large amount of revenue, cause no administrative difficulty, and afford a basis for regulation, it is concluded that these taxes should be continued at their present rates as permanent features of the tax structure.

It may be pertinent to refer particularly to the present tax on transfers of bonded indebtedness because of the recommendation herein contained to replace the present stock transfer tax with one based on the value of the financial transactions. Some justification may be presented for a corollary replacement of the tax on transfers of bonds. However, as is well known, the relative variations between the face value and market value of bonds are by no means as great as those between the par and market value of stocks. For this reason the inequity inherent in the existing stock transfer tax is apparent to only a small degree in the bond transfer tax. The regulatory feature in the proposed stock transfer tax is neither required nor desirable in connection with bond dealings.

Because of the above considerations, the retention of the existing tax on transfers of bonded indebtedness seems justifiable.

Miscellaneous
other Taxes

IV. Other Taxes

(27) Brewers' wort and malt products.

The tax on brewers' wort was enacted in 1932 and was a regulatory measure. Its avowed purpose was to discourage the illegal use of malt products in the manufacture of beer. Products used in the manufacture of malted milk, medicinal products, foods, cereals, beverages, and textiles being outside the scope of the prohibition laws, were exempt. In view of the repeal of the Eighteenth Amendment the need for this tax no longer exists. It yields no substantial revenue. Discontinuance is recommended.

(28) Imports of coal and coke.

(29) Lumber.

(30) Copper and copper concentrates.

These taxes were imposed under the Revenue Act of 1932. They have not been the cause of any administrative difficulty, and for the fiscal year 1936 their yield was approximately $5,684,000. Nevertheless, if the purpose of these taxes is the giving of protection to domestic producers of these articles or the regulation of their domestic consumption, these ends may more properly be achieved under the tariff laws. It is therefore suggested that these levies be removed from the excise tax list and if necessary, reinstated by appropriate tariff legislation.

(31) Imports of certain oils, etc.

These taxes on imports of certain fish and marine animal oils were first imposed under the Revenue Act of 1934 and amended by the Revenue Acts of 1935 and 1936. Unlike the other excise taxes on imports, however, these taxes will remain in effect until specifically repealed. Figures are not available as to their separate yields, but in the aggregate, the yield for 1936 did not exceed $1,500,000. As has been indicated in the discussion of the other import taxes, it is believed that these items could be more suitably taxed under the tariff laws.

(32) Toilet preparations:

The tax on toilet preparations was first enacted in 1917, revised in 1918 and repealed in 1921. Thus the present 5 percent and 10 percent tax, enacted in 1932, represents no innovation. The 5 percent rate applies to tooth and mouth washes, dentrifices, tooth pastes, toilet soaps and similar articles or preparations; the 10 percent rate applies to perfumes, cosmetics, etc. Collections have increased from $9,603,000 in 1933 to $13.3 million in 1936.

A degree of conflict has been observed between the tax on toilet preparations and the tax on lubricating oils imposed by Section 601 (c)(1), Title IV, of the Revenue Act of 1932. A considerable amount of lubricating oil is used as a basic ingredient in the manufacture of hair oil, cosmetics, and creams. Real conflict, however, has been lessened, if not entirely eliminated, by administrative provisions permitting tax-free sales of materials to be used as raw materials in connection with the manufacture of other taxable articles under this title.

The industry concerned considers the tax to be too high and ruinous. As a result tax minimizing devices have been utilized, rendering the administration of the tax troublesome and difficult. The statute stands in need of revision if it is to cope effectively with existing practices.

The most commonly used tax avoidance method is that of selling in bulk to a subsidiary company which in turn packages the product and sells it back (tax free) to the parent company for ultimate final sale to consumers.

The selling price of toilet goods is attributable not so much to the cost of basic ingredients but to expensive packaging and advertising. Hence bulk sales, made at very low prices, carry a small tax burden.

From the character of the items taxed it is readily apparent that the tax affects the public generally and falls upon products which today are practically regarded as necessities.

Collection costs are thought by the Bureau to be somewhat above the average for miscellaneous and sales taxes.

It is recommended (a) that the articles now subject to the 5 percent tax (tooth paste, toilet soaps, and dentrifices, etc.) which yielded $4,823,968 for the fiscal year 1936, be exempt from taxation in consideration of the fact that they are common necessities; and (b) that Section 603 of the Revenue Act of 1932 be amended to extend the scope of the 10 percent tax to persons who prepare or package taxable toilet preparations in the form in which they are to be sold to the consumer for consumption or use. As an alternative the statute may be amended to specifically define "manufacturer, producer, or importer," to include a person who prepares and packages such preparations in the form sold to the consumer.

(33) Furs

A 10 percent tax on furs was in operation from 1919 to 1922. This tax was reenacted in the Revenue Act of 1932. In the 1934 Revenue Law it was amended to apply only to articles selling for $75.00 or more.

The statute was further amended by the Revenue Act of 1936 to cover all sales of fur articles, but the tax rate was made 3 percent. The 1936 yield therefrom was approximately $3,000,000. It affects approximately 2,100 manufacturers, producers and importers, 75 percent of whom are located in the New York collection district.

This tax has been a constant source of administrative difficulty to the Bureau and a cause of turmoil within the fur industry in that the Bureau must determine in the case of fur-trimmed garments whether the fur constitutes the component material of chief value. Regulations have aided to make the administration less troublesome, but it is still complicated, because determination requires detailed investigation of the cost records of manufacturers of fur-trimmed garments. From the nature of the tax it is readily apparent that it is far reaching in its application. Moreover, while many fur garments come within the class of luxury, the great majority, particularly the fur-trimmed garments, are necessities. Hence, by reason of the difficulties incident to its administration and the widespread application of the tax, the repeal of the tax is recommended.

(34) Radio parts

This tax is imposed on chassis, cabinets, tubes, reproducing units, power packs, phonograph records, and phonograph mechanisms suitable for use in connection with or as a part of radio receiving sets or combination radio and phonograph sets.

The statute imposing this tax has been found unsatisfactory because the tax applies only to certain specified parts of radios and not to the completed article. As a result manufacturers have been required to maintain records, otherwise not necessary, to show the taxes paid with respect to parts purchased by them and used in the manufacture of completed radios. In addition, the tax necessitates an intensive audit of taxpayers' records to determine tax liability. The tax is widespread in its effect, since practically every household now has a radio. The radio is also coming into use for educational purposes.

In view of these considerations and the fact that the tax may not be classed as a relatively highly productive one, it should be included as one of those whose repeal is recommended. At all events, the tax should be revised so as to apply only to completed radio sets, with provision for allowance of tax-free sales of parts. See Section 620, Revenue Act of 1932.

(35) Mechanical refrigerators and certain components thereof:

This tax is imposed on household-type mechanical refrigerators and also on certain of its component parts sold separately. The tax dates from the enactment of the Revenue Act of 1932 (Section 608) and is levied at the rate of 5 percent on the producer's or the importer's price. The tax is easily administered, attempts at avoidance and evasion are few and cost of collection, while unknown, may be presumed to be low. It has produced an increasing amount of revenue as this type of refrigerator became perfected for home use. The 1936 yield therefrom was approximately $6,000,000.

The major objection to the tax is that it is imposed on an article which today is essentially a household necessity. Nevertheless, because of its substantial yield, and ease of administration, and considering that the article taxed has a relatively long life and therefore is not a frequently recurring tax burden to the specific vendees, it is recommended that this tax should be continued.

(36) Sporting goods:

Sporting goods were taxed from 1917 until 1921 in which year the tax was repealed, together with other so-called war taxes. The present levy was enacted in 1932 and imposes a 10 percent tax on sales by manufacturers, producers, or importers.

Both the Bureau of Internal Revenue and the taxpayers are experiencing difficulty in determining the specific articles to which the tax applies. The tax, for instance, exempts children's games but whether an article of sporting goods is primarily suitable for children rather than adults is at times difficult to ascertain. In many cases the question has been resolved by setting up arbitrary standards based upon the size of the article involved. Such standards, however, are not wholly satisfactory for they have made the tax applicable to such articles as baseball gloves made of cheap imitation leather and sold for as little as 10 cents. The chief criticism made against the tax is that it falls on articles used for health and recreation by the public at large.

The yield from the tax has been $5,500,000 for 1936.

All factors considered, the sporting goods tax should not be singled out for repeal prior to other taxes whose incidence is more widespread, such as chewing gum, matches, etc.

The present statute should be amended to define more clearly the characteristics of sporting goods liable to the tax. In this connection, attention is called to a memorandum entitled "The manufacturers' excise tax upon sporting goods with special reference to points raised by Mr. Julian W. Curtiss, Chairman, Tax Committee, Athletic Goods Manufacturers," dated April 8, 1937, and addressed to the Secretary. Therein

is contained an extensive analysis of the tax on sporting goods with recommendations that would tend to eliminate the difficulties attendant to the existing levy. In general, the proposed amendments would classify taxable items and thereby eliminate the necessity of determining whether certain sporting equipment falls within the province of children's games. In addition, it would free from tax uniforms and shoes, but add certain specified items to avoid confusion. Finally, it would eliminate the catch-all phrase "all similar articles commonly or commercially known as sporting goods."

It is believed that amendments to the present tax accomplishing these ends would aid materially in the elimination of the difficulties encountered in the present law and would make the tax a more desirable one for continuation. The recommended revision of Section 609, Revenue Act of 1932, applying to sporting goods, is as follows:

> There is hereby imposed upon the following articles, sold by the manufacturer, producer or importer, a tax equivalent to 10 per centum of the price for which so sold: Tennis rackets (measuring 22 inches over-all or more in length), tennis racket frames (measuring 22 inches over-all or more in length), tennis balls, tennis string, tennis nets, polo mallets, polo balls, baseball bats (measuring 26 inches or more in length), baseballs, baseball gloves and mitts made of leather in whole or in part, baseball masks, baseball body protectors and shin guards, footballs, football helmets, football harness, golf bags, golf clubs, golf balls, lacrosse sticks, lacrosse balls, hockey sticks, hockey pucks, hockey balls, cricket bats, cricket balls, basketballs, soccer balls, billiard and pool tables (measuring 45 inches over-all or more in length), billiard and pool balls and cues for such tables, bowling balls and pins, skates, and fishing rods and reels.

(37) Firearms, shells, and cartridges:

The 10 percent tax on firearms, shells, and cartridges, is of minor revenue significance and may be regarded as regulatory in character. The Department of Justice has under consideration an amendment to the National Firearms Act to include therein regulatory provisions for firearms generally. In that event, regulation by taxation will become unnecessary. The tax may therefore be repealed at such a time as the proposed amendment to the National Firearms Act is enacted.

(38) Cameras:

The 10 percent tax on cameras, imposed by Section 611 of the Revenue Act of 1932, is relatively simple to administer but is a minor revenue producer. The tax falls upon an article which, strictly speaking, is not within the luxury class, but is used by the general public for recreational purposes. There seems to be little justification for

singling out this article and not taxing like types of articles which may be similarly classified. The statute imposes a tax only on completed cameras and not on parts thereof, and in that respect may be considered faulty. In view of these considerations and since the loss in revenue involved would not be appreciable, it is considered desirable that this tax be discontinued.

(39) Matches:

The tax on matches (2 cents a thousand on ordinary matches, 1/2 cent a thousand on paper matches in books; 5 cents a thousand on fancy wooden matches) yields a sizeable amount of revenue and has not caused any serious administrative difficulties. Furthermore, it is an article frequently taxed in foreign countries. The product, however, is such a universal necessity that the tax thereon should not be retained permanently. Matches represent an instance in which the incidence of the tax is in doubt. Matches are sold at well established prices and it is probable that most of the tax is absorbed by the producer, leaving the price of the article unaffected.

It may be noted, too, that fancy wooden matches having a stained, dyed, or colored stick or stem are taxed at 5 cents a thousand. These fancy matches are of the type imported from Japan and other foreign countries, and this higher rate discourages the importation of such matches from these countries, thereby protecting domestic match manufacturing which is a sizeable industry but is confined to about 15 manufacturers and importers. In this connection it is suggested that if it is desired to give these domestic manufacturers protection, that end be accomplished through the tariff laws.

(40) Chewing gum:

Chewing gum was originally subjected along with candy and soft drinks to the emergency excise taxes imposed under the Revenue Act of 1932. Subsequently, the tax upon candy was dropped, but the 2 percent tax on chewing gum, although considered for repeal by the Senate Finance Committee, was continued. Since it is an article which competes in many respects with candy, it would seem desirable to discontinue the tax thereon.

Although the tax has been fairly simple to administer, it has not produced substantial amounts of revenue. These reasons, added to the fact that chewing gum is not in any sense a luxury would make it advisable that the tax be repealed.

(41) Electrical energy:

Although a tax on electricity passed the House in 1917, it was not then enacted into law, and it was not until the Revenue Act of 1932 that this source of revenue was utilized by the Federal Government.

The tax, as first passed, was a consumption tax at the rate of 3 percent, in that it was imposed on electrical energy sold for domestic or commercial consumption to be paid by the vendee and collected by the vendor. H. R. 5040 enacted June 16, 1933 amended the law and made the tax payable by the vendor. It is not known to what degree the present tax is shifted to the consumer because detailed and adequate information is not available on the extent to which public service commissions recognize tax liability as a cost of production in fixing rates of electrical energy.

It should be noted in this connection that in the Hearings on the 1934 Revenue Bill before the House and Senate Committees, no power company representatives appeared to oppose the tax.

Electrical energy has long been the subject of taxation by the several States. For the most part, the State taxes are on gross receipts. In some instances there are special taxes on electric companies in the form of capital stock taxes, franchise taxes measured by corporate excess profits and special consumer taxes measured by the number of kilowatt hours consumed. Moreover, some cities impose taxes for the privilege of engaging in the utility business. These taxes are levied at a flat rate or are measured by the proportion of total capital (variously determined) utilized in the municipality or by gross receipts.

Despite the differences in the bases for the Federal tax and the State and local taxes, there seems to exist a definite Federal-State conflict. However, in view of the fact that the tax has caused no great administrative difficulties, has yielded a large amount of revenue—$33,575,179 for the fiscal year 1936—and uncertainty exists as to the extent to which the tax is borne by consumers, it is suggested that this tax be continued at present.

(42) Telephone, telegraph, cable and radio messages, etc.:

This tax has proven itself a fairly constant source of large revenue, but affects the public at large. It is not a luxury tax but is one of those imposed under the Revenue Act of 1932, primarily as an emergency measure. It should be noted, however, that the tax applies to telephone messages over 50 cents, telegraph and cable messages, etc., none of which can be said to affect directly those who cannot afford to pay the tax. In so far as it is a business expense, it may be shifted to the price of the article and thereby to the consumer. The extent to which this occurs, however, cannot be indicated. The Federal taxes on these services also conflict in some degree with State-imposed taxes. Although the form of Federal and State taxes are not identical, some 19 States levy special taxes on telephone services and at least 16 levy special taxes on telegraph services. Here, too, it cannot be stated to what degree these taxes are shifted to the consumer of these services.

It is therefore concluded that although it would be desirable to eliminate this tax, its yield and ease of administration are points in its favor and that repeal should be relegated to a place of secondary consideration.

(43) Use of safe deposit boxes:

Both the tax on safe deposit boxes and the tax on checks were part of the group of emergency taxes imposed under the Revenue Act of 1932. Unlike the tax on checks, the 10 percent tax on safe deposit boxes has been continued and will continue in force unless specifically repealed. As in the case of the tax on checks, the collection was through the banks and the cost to the Government therefore relatively small. Nevertheless, a large number of returns are filed monthly since there are more than 15,000 banking establishments throughout the country.

From a revenue standpoint, the tax on safe deposit boxes has been relatively unimportant. On the other hand , the $2,000,000 yield per annum therefrom is collected without undue difficulty or complaint from either the banks or the users of safe deposit boxes. This lack of administrative difficulty, coupled with the fact that the tax falls ultimately on people of substantial means, makes it undesirable to recommend its discontinuance.

(44) Dues and initiation fees:

This tax levied at a 10 percent rate has been in effect since 1917, has produced considerable revenue at small administrative cost, and will continue in force until specifically repealed. The item taxed is one which clearly falls beyond the scope of necessities, and its use is not curtailed by the tax. It is therefore a suitable permanent item for excise taxation. This tax may therefore be continued in force subject to an amendment, making any person who, for any reason fails to collect the tax upon taxable dues and fees, liable for the tax himself; under the existing statute liability is chargeable only in the cases of proven "wilful failure" to collect.

(45) Pistols and revolvers:

Pistols and revolvers have been taxed since 1919. The present 10 percent levy will continue in effect until repealed. The yield per annum is small - $61,000 in 1936 - and the tax is somewhat regulatory in nature. The administrative procedure is relatively simple and the cost of collection is regarded as extremely low. It is recommended, therefore, that this tax should be continued in force.

(46) Processing of certain oils:

Section 602½(a) of the Revenue Act of 1934 imposed a tax on the first domestic processing of certain oils and provided that all taxes collected with respect to coconut oil wholly of Philippine production

or from materials wholly of Philippine growth were to be paid to the Philippine Treasury provided that they paid no subsidies to producers of coconut oil, etc. About $16 million of the $27 million reported as the total yield for 1936 went to the Treasury of the Philippine Islands.

The purpose of the tax is primarily to protect the interests of domestic producers of tallows and oils against certain foreign products and will continue until specifically repealed. It would appear that this end can more readily be accomplished through the use of the tariff rather than the tax law. Difficulty pursuant to the administration of the tax led to the amendment of the statute by Section 702 of the Revenue Act of 1936, which enumerated more clearly the items subject to tax. Sufficient experience with this amendment has not yet been had to show whether the difficulties have been overcome or have merely given way to new ones. In view of the administrative friction experienced with this tax, and the further fact that for 1936 the total yield to the Federal Government was less than one-half the amount collected, it is recommended that although this tax may be continued at present, eventual elimination is advisable.

(47) Regulatory taxes:

Although a number of the taxes discussed in the preceding sections have effects which are somewhat regulatory, the following group of excises (excluding the tax on oleomargarine) may be said to be primarily regulatory in purpose:

(a) Tax on transfers of certain firearms and machine guns under the National Firearms Act, as amended;
(b) Cotton futures tax;
(c) Tax on narcotics;
(d) Tax on white phosphorous matches;
(e) Taxes on adulterated butter;
(f) Taxes on process or renovated butter, mixed flour, filled cheese;
(g) Tax on State bank notes.

These taxes were not levied with the avowed purpose of producing revenue, but rather to regulate or to prohibit the use of or traffic in the specified articles and transactions. During the year 1936, the yield from these taxes amounted to $575,645. In view of their regulatory character, it is recommended that all of these taxes be retained. (For details as to rates and collections from these taxes, see table page 7-a.)

Conclusions

V. Conclusion

The foregoing analysis of the individual manufacturers' excise, documentary stamp, and miscellaneous excise taxes is of necessity practical in character. Economists are in general agreement that from the point of theoretical considerations, indirect taxes other than those imposed for regulatory purposes or for the benefit of the taxed groups, suffer in comparison with direct taxes based on the principle of ability to pay. Revenue considerations, however, temper principles of equity. Thus, we find that indirect taxes occupied a significant role in the Federal fiscal system even during times of great prosperity and, furthermore, that they have in the past and continue at present to play a major role in the fiscal operations of most foreign governments as well.

Existing and probable near future conditions of the Federal finances preclude the possibility of the immediate repeal of all these taxes. Involving almost $600,000,000 per annum, their yield is at present indispensable. However, in view of the fact that the individual taxes in this group vary widely in productivity as well as in degree of inequity, the existing situation can be improved by the elimination of those taxes which are most inequitable and at the same time occupy only a minor position in the revenue structure. Furthermore, some of the regulatory taxes have outlived their usefulness.

To recapitulate the results of the foregoing analysis, it is concluded:

(1) That the taxes on

(a) Sale of brewer's wort and malt products,
(b) Gasoline produced from natural gas,
(c) Sale of crude petroleum, and
(d) Refining of crude petroleum,

be repealed because they are regulatory taxes no longer required;

(2) That the taxes on

(a) Toilet preparations (5 percent tax),
(b) Cameras,
(c) Chewing gum,
(d) Furs,
(e) Radio parts, and
(f) Auto accessories,

be repealed because these commodities are in common use and/or because taxes on them are difficult to administer;

(3) That the taxes on imports of

(a) Certain oils,
(b) Coke and coal, lumber and copper, and
(c) Crude petroleum, etc.,

be repealed because they could more properly be treated under the tariff laws;

(4) That the taxes on

(a) Processing of certain oils,
(b) Mechanical refrigerators,
(c) Matches,
(d) Sporting goods,
(e) Automobile trucks, etc.,
(f) Firearms, shells and cartridges, and
(g) Safe deposit boxes

be held in abeyance, to be repealed after the elimination of the taxes enumerated in Sections (1), (2), and (3) above, and when Federal fiscal considerations render such action possible;

(5) That the taxes on

(a) Electrical energy,
(b) Telephone, telegraph, cable and radio messages, etc., and
(c) Lubricating oils

be repealed only after the elimination of the taxes enumerated in Sections (1) - (4) inclusive, above, and when their revenue yield is no longer required; and finally,

(6) That

(a) The regulatory taxes,
(b) The documentary stamp taxes,
(c) The admissions taxes, and
(d) The taxes on dues and initiation fees,

be retained in the permanent tax structure.

The accompanying table reveals in summary form the revenue significance of those taxes whose repeal is considered worthy of immediate or subsequent consideration.

Excise taxes recommended for repeal

Item	Tax	Fiscal year 1936 Collections	Fiscal year 1936 Number of taxpayers
	Group I		
	(1) Regulatory taxes no longer required		
1	(a) Brewer's wort	$ 1,008,273.85	40
2	(b) Gasoline produced or refined from natural gas	22,751.80	406
3	(c) Sale of crude petroleum	563,766.88	694
4	(d) Refining of crude petroleum	561,235.89	400
	(2) Taxes on commodities in common use		
5	(a) Toilet preparations (the 5 percent tax)	4,823,967.94	6,100
6	(b) Cameras	577,925.70	50
7	(c) Chewing gum	807,279.40	40
8	(d) Furs	3,321,057.14	2,100
9	(e) Radio parts	5,075,270.82	300
10	(f) Automobile accessories	7,110,188.33	2,600
	(3) Import taxes (more properly to be treated under the tariff laws)		
11	(a) Imports of certain oils, etc.	1,500,000.00*	1/
12	(b) Imports of copper, coal, and lumber	5,684,000.00*	1/
13	(c) Imports of crude petroleum, etc.	7,281,000.00*	1/
	Total	38,352,717.75	12,730
	Group II (Recommended for repeal subsequent to Group I)		
14	(a) Processing of certain oils	27,691,080.79	340
15	(b) Mechanical refrigerators	7,939,063.75	100
16	(c) Matches	7,106,359.21	50
17	(d) Sporting goods	5,531,122.72	1,200
18	(e) Auto trucks, etc.	7,000,000.00*	950 2/
19	(f) Firearms, shells and cartridges	2,494,574.54	100
20	(g) Safe deposit boxes	1,997,409.57	10,600
	Total	59,759,610.58	13,340
	Group III (Recommended for repeal subsequent to Groups I and II)		
21	(a) Electrical energy	33,575,179.25	2,400
22	(b) Telephone, telegraph, cable and radio messages, etc.	21,098,347.65	460
23	(c) Lubricating oils	27,102,831.57	455
	Total	81,776,358.47	3,315
	Grand total	$179,888,686.80	29,385

* Approximated.
1/ Not available.
2/ Includes manufacturers of other automobile chassis, etc.

Collectively, the 13 taxes recommended for immediate repeal represent an annual revenue of approximately $35,000,000; the 7 taxes recommended for subsequent repeal represent an additional $60,000,000 of annual revenue; finally, the three taxes, whose repeal should be postponed until such a time as fiscal conditions require, involve an annual revenue of approximately $82,000,000.

The other excise taxes now in effect might well be continued in their present form or with such amendments as have previously been recommended. It does not follow, however, that they qualify for inclusion in the permanent tax structure. That condition, as the foregoing analysis indicated, is fulfilled by only four groups of excises:

(1) Regulatory taxes;

(2) Documentary stamp taxes;

(3) Admissions taxes; and

(4) Taxes on dues and initiation fees.

These conclusions, it may be observed, are to some extent at variance with the findings of Dr. Shoup, as indicated in his memorandum to the Secretary. Writing three years ago, Shoup anticipated the passing of "the emergency" in the not too distant future and therefore centered his discussion upon excise taxes as a group, concluding that they should be repealed when their yield can be dispensed with. It now appears, however, that the bulk of the excise tax revenue will be required for some time and therefore in the above discussion emphasis was placed on selection; on the elimination of the least desirable taxes and the temporary retention of all others. In this manner inequity can be minimized.

Possible new
Revenue Sources

F. Possible Sources of New Revenue

The number of commodities and services which might be subjected to excise taxation is very large. The economic analysis, as developed in the preceding sections (Sections B, C and D), has shown excise taxation to be, on the whole, a secondary source of revenue, and wherever possible is to be contracted in favor of direct taxes. To the extent, however, that excise taxes are to be retained in the tax structure, either as a bolster to revenue or as a device for reaching those in the lower income brackets who cannot, for administrative and other reasons, be taxed by means of direct taxes, certain other sources might be advantageously examined to determine the possibilities of attaining the same ends in a more desirable manner than is accomplished by utilization of some of the excise taxes in effect at the present time.

Certain articles are capable of producing large amounts of revenue because of their wide use. Such articles are tea, coffee, sugar, salt, thread and twine, confectionary, boots and shoes. These, however, are daily necessities to the masses of the population and taxes thereon would fall most heavily on those with the least economic ability. Other taxes such as gasoline and crude petroleum taxes at increased rates, a tax on checks and a tax on transportation charges, also have important revenue potentialities.

Transportation taxes have represented important factors in the revenue receipts of foreign countries, particularly England and France. In the United States, as may be seen from the following table, such taxes have yielded as much as $263 million in one year (1921). The larger half of this revenue was realized from the tax on transportation of freight.

Yield of Transportation Taxes
1918-1922
(In millions of dollars)

Fiscal year	Freight	Express	Passenger traffic	Seats, berths, etc.	Total
1918	30.0	6.5	24.3	2.2	63.0
1919	116.4	14.3	77.8	5.9	214.3
1920	130.8	17.6	98.8	6.1	253.3
1921	140.0	17.1	97.5	8.5	263.1
1922	85.3	12.5	58.0	6.0	161.8

Source: Annual Reports of the Commissioner of Internal Revenue.

Because of the factors of incidence, conflict with other taxes, and regressive effect inherent in taxes on these commodities or services, it is not believed desirable to consider them unless a need for revenue not otherwise attainable should force the matter.

On the whole, if it is desired to impose other excises either to compensate for the loss pursuant to the repeal of those excise taxes herein recommended for elimination, or to obtain additional revenue, taxes on the following items may achieve these ends with a minimum of inequity:

(a) Taxes on tractors and trailers;
(b) Tax on radio broadcasting stations;
(c) Tax on horse and dog race wagers.

It may be in point to mention that, in the analysis of these potential sources of excise tax revenue, the same criteria which were relied upon in the preceding section of this discussion, namely, productivity, incidence, ease of administration, effect upon economic enterprise, and effect upon other Federal and State and local taxes, were considered.

(a) Taxes on tractors and trailers

At the present time there are in effect Federal excise taxes on passenger automobiles and trucks, but tractors and trailers do not fall within the statutory definition of either automobiles or trucks. A distinction has been made by the Bureau (S. T. 722; C. B. June 1934, p. 376) between trucks (taxable), the prime purpose of which is to carry a load, and tractors (non-taxable), the prime purpose of which is to draw or pull a load. As a result of this differentiation, automotive chassis of the short wheel base type intended to draw trailers are classed as tractors and are not taxed.

Although the tax on trucks generally is not considered a wholly desirable one (see pp. 10-11 supra), there seems to be no justification for this differentiation between types. It has caused a good deal of confusion within the industry, especially with respect to manufacturers of both the chassis with short wheel bases and chassis with regular wheel bases. Accordingly, it is recommended that the statute be amended to include therein tractors, excepting those not adaptable or not permitted for use on the highways. This would leave tax-exempt all tractors used on farms and in construction work.

Attention is drawn to possible difficulty with this definition for tax exemption since the requirements of the several States as to the type of vehicle permitted on highways vary, and an effort should be made to set up definite standards as a means of surmounting the difficulty.

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The increasing importance of trailers for passenger use suggests their consideration as proper objects for excise taxation. Accurate production figures are unavailable but estimates made by the Automotive Daily News placed 1936 production at about 35,000 units, having a value of about $19,000,000. For 1937, it is estimated that production will reach 100,000 units having a value of about $55,000,000. At the 3 percent tax rate applicable to passenger automobiles, the yield would be about $1,650,000. While accurate information as to the effects a tax of this type would have on trailer sales is not at hand, it is not believed that such a tax would affect sales unduly.

The only State and local taxes levied on trailers at present are personal property taxes and registration fees. A Federal tax on trailers would not, therefore, add to the existing conflict between Federal and State and local jurisdiction with respect to the levying of automotive taxes.

In view of these considerations, it is believed that it would be desirable to amend the tax on automobiles to include trailers in the definition thereof.

(b) Radio station tax

A plan has been proposed by George Henry Payne of the Federal Communications Commission to tax radio broadcasting stations on the basis of the amount of power used. The rates suggested are: Stations using 1,000 watts or less, $1.00 a watt; stations using from 1,000 to 10,000 watts, $2.00 a watt; and stations using more than 10,000 watts, $3.00 a watt. It is estimated that this tax would yield $5,000,000 or more in annual revenue. An analysis of wattage used by major broadcasting stations shows that 32 stations are licensed to use 50,000 watts. If this proposal were enacted into law, they would each pay a Federal tax of $150,000. One station, WLW of Cincinnati, is licensed to use 500,000 watts; its tax would, therefore, be quite high.

It should be noted that the radio broadcasting industry in this country is largely in the hands of three large networks, viz., Columbia Broadcasting System, National Broadcasting Company, and Mutual Broadcasting System. Aside from payments which would be made by the several smaller broadcasting companies, the bulk of the revenue would come from stations controlled by these three systems.

The total gross revenue for last year of the broadcasting business was $107,000,000. If a tax such as the one suggested were made effective, it would be tantamount to a 5 percent tax on gross revenue. This may be termed somewhat excessive. It should further be noted that such a tax could probably be shifted to the users of the broadcasting facilities who would in turn add it to their advertising costs and ultimately to the price of the articles sold to consumers. The cost of advertising is already a large item in many instances in the prices of articles, and any tax which would further an increase in such costs is not to be encouraged.

It is believed that while the basis of the tax is sound and has economic justification, it should be inaugurated, experimentally, at rates as follows:

1,000 watts or less	-	50¢ a watt
1,000 watts to 10,000 watts	-	$1.00 a watt
More than 10,000 watts	-	$1.50 a watt

(c) Tax on wagers on horse and dog races

At the present time the only tax levied by the Federal Government on horse and dog races is the general tax applicable to all admissions. Taxes on wagers have been preempted by the States. The Federal Government does reach the gains from wagers through its income tax law. In addition, the Federal Government could also tax race bets and thereby obtain substantial revenue.

Twenty-three States authorize horse racing with pari-mutuel wagering and impose taxes thereon. Taxes on horse race bets are a large item in the revenue system of many European countries. France realizes some $40,000,000 annually from such a tax; England, on the basis of the short period when such a tax was in effect, estimated its yield on a per annum basis at about $30,000,000, and Spain and Germany also find this field of taxation extremely lucrative.

The imposition of a tax on racing wagers might necessitate, to some extent, Federal recognition of racing activities. However, it is well to bear in mind that the Federal Government already recognizes these activities by making admissions to race meetings subject to tax and, as pointed out previously, by subjecting gains derived from gambling to income taxation.

A tax levied on pari-mutuel wagers would be quite feasible to administer and not subject to avoidance or evasion. It necessitates merely the computation and deduction of a definite percentage of the total amount wagered on each race.

The tax would be classed as one having regulatory purpose and, generally speaking, would not constitute an undue burden on those subject to its levy. A rate of 5 percent on total wagers is recommended.

Excises not
Considered

C. Excises Not Considered for Revision: Liquor, Tobacco and Oleomargarine

Liquor and Tobacco:

The decision to exclude from present detailed consideration, the liquor and tobacco excises is prompted by the recognition of their well-established and significant position in the Federal tax structures. Together with customs, they constituted the mainstay of the Federal Government's revenues until the income and death taxes became permanent features of the tax structure almost a quarter of a century ago. As early as 1913 these items contributed $300,000,000, or 87.1 percent, of the $344,000,000 collected from all internal revenue sources.

Table A: Tobacco and liquor excise receipts compared with total internal revenue collections for fiscal years 1913, 1926-1938

(In millions of dollars)

Year	Liquor	Tobacco	Total liquor and tobacco	Total internal revenue	Total liquor and tobacco as a percentage of total internal revenue
1913	$223.3	$ 76.8	$ 300.1	$ 344.4	87.1%
1926	26.5	370.7	397.2	2,836.0	14.0
1927	21.2	376.2	397.4	2,865.7	13.9
1928	15.3	396.5	411.8	2,790.5	14.8
1929	12.8	434.4	447.2	2,939.1	15.2
1930	11.7	450.3	462.0	3,040.1	15.2
1931	10.4	444.3	454.7	2,428.2	18.7
1932	8.7	398.6	407.3	1,557.7	26.1
1933	43.2	402.7	445.9	1,619.8	27.5
1934	258.9	425.2	684.1	2,672.2	25.6
1935	411.0	459.2	870.2	3,299.4	26.4
1936	505.5	501.2	1,006.7	3,520.2	28.6
1937	594.2	552.2	1,146.4	4,653.2	24.6
1938 (est.)	643.7	569.3	1,213.0	6,243.0	19.4

The ratification of the prohibition amendment and the growing yield of direct taxes relegated liquor and tobacco revenues to a relatively less significant position during the Twenties. Thus, in the fiscal year 1927, when these sources yielded almost $400,000,000, their relative importance in total internal revenue amounted to only 13.9 percent. Absolute collections were higher, because tobacco taxes increased sufficiently during the interim to compensate for the loss of liquor revenue following prohibition. The taxation of tobacco was in fact so thoroughly imbedded in the American system that when taxes were being generally reduced the tobacco excises, with the exception of cigars, were kept stable. Simultaneously, tobacco consumption increased and the consumer's preference shifted from low-taxed to high-taxed products - cigarettes.

The subsequent repeal of the Eighteenth Amendment and the marked contraction of direct taxes during the recent depression conspired to return to these well-established revenue sources their important relative position as well. Reference to Table A will reveal that the yield of these sources rose from the $400,000,000 level in 1927 to $455,000,000 in 1931 and, after a decline to $407,000,000 in 1932, has steadily increased. Collections during the last three fiscal years amounted to $870,000,000, $1,007,000,000 and $1,146,000,000, respectively, and for the current fiscal year are expected to exceed $1,200,000,000. In relative significance they increased from 13.9 percent of total internal revenue in 1927 to 18.7 percent in 1931 and 24.6 percent in 1937. In addition, liquor and tobacco contribute also to customs revenues. Thus, in 1935 these two commodities accounted for $61,000,000, or 17.8 percent, of the $343,000,000 collected from customs. Corresponding data for the other years are presented in Table B.

Table B: Tobacco and liquor customs duties compared with total customs duties for calendar years 1926-1936

(In millions of dollars)

Calendar year	Liquor	Tobacco	Total liquor and tobacco	Total customs duties	Total liquor and tobacco as a percentage of total customs duties
1926	$ .5	$38.1	$38.6	$579.4	6.7%
1927	.5	40.0	40.5	605.5	6.7
1928	.5	39.3	39.8	569.0	7.0
1929	.5	39.1	39.6	602.3	6.6
1930	.4	40.1	40.5	587.0	6.9
1931	.4	32.3	32.7	376.6	8.7
1932	.4	22.5	22.9	327.8	7.0
1933	7.4	21.5	28.9	250.8	11.5
1934	42.5	22.5	65.0	313.4	20.7
1935	39.0	22.0	61.0	343.4	17.8
1936	44.0	25.2	69.2	386.6	17.9

From the point of view of productivity the most important liquor excises are those imposed at the rate of $2 per proof or wine gallon on distilled spirits and at the rate of $5 per barrel on beer. Among the tobacco taxes, the major producer is the tax on small (standard) cigarettes now imposed at the rate of $3 per 1,000, or 6 cents per pack of 20 cigarettes. Cigarettes weighing more than 3 pounds per thousand are taxed at the rate of $7.20 per 1,000, and tobacco and snuff is taxed at the rate of 18 cents per pound. A detailed schedule of current liquor and tobacco excise rates are presented in Table C.

Reference should also be made to the fact that in addition to these Federal taxes, liquor and tobacco are also taxed by State governments. In 1936 States collected some $45,000,000 from tobacco and $265,000,000 from liquor taxes. These two items accounted for 12.2 percent of the $2,500,000,000 which the States collected from all taxes. Specifically, tobacco in some form is now taxed by 31 State governments; 21 of these levy taxes on cigarettes at rates ranging from 1 to 5 cents per pack, the most frequent rates being 2 and 3 cents. The State liquor tax systems are too heterogeneous to enable significant generalizations beyond the observation that 17 States operate liquor store monopolies, while of the remainder, 5 tax only beers and 26 tax distilled spirits and wines, as well as beers.

In seeking an explanation for this great reliance upon liquor and tobacco revenue, much emphasis must thus be placed upon their productivity. It appears, further, that these two commodities are generally regarded as luxuries and, not infrequently, as representing undesirable consumption habits which should be discouraged. To the extent that these represent luxury consumption, they are said to reflect, in a limited sense, ability to pay. On social grounds, the users of these commodities are deemed to consumesomething which is not to their interest. While the consensus with respect to the moral excellence of the individual in using liquor and tobacco consumption may have undergone a radical change with the passing of the years, the original selection of these items for taxation appears to have been greatly influenced by these considerations. In connection with an explanation of their continuance, however, practical considerations carry greater significance. Governmental revenue requirements have exhibited a steady upward trend and promise to continue doing so in the future with the result that governments are reluctant to relinquish important and well-established revenue sources.

Turning to considerations of economic theory, it appears that despite the fact that the Federal revenue system is designed to weigh the relative taxpaying capacities through the income tax,

Table C
Liquor and Tobacco Excise
Tax Rates
As of August 26, 1937

Title of Tax	Rate of Tax	Measure of Tax
Liquor		
Excise taxes:		
Liquor	$ 2.00	per proof or wine gallon
Beer	5.00	per barrel
Still wine containing following percentages of absolute alcohol by volume:		
Not over 14%	.05	per wine gallon
14% - 21%	.10	per wine gallon
21% - 24%	.20	per wine gallon
over 24%	2.00	per wine gallon
Artificially carbonated wine	.0125	per half pint
Liqueurs, cordials and similar compounds	.0125	per half pint
Champagne or sparkling wine	.025	per half pint
Brandies or wine spirits withdrawn and used in fortification of wines	.10	per proof gallon
Bay rum or any article containing alcohol imported from Puerto Rico for consumption	2.00	per proof or wine gallon
Perfume, imported, containing distilled spirits	2.00	per wine gallon
Tobacco		
Cigars:		
Not more than 3 lbs. per M	$ .75	per M
More than 3 lbs. per M retailing at:		
Not more than 5¢ each	2.00	per M
5¢ - 8¢ each	3.00	per M
8¢ - 15¢ each	5.00	per M
15¢ - 20¢ each	10.50	per M
More than 20¢ each	13.50	per M
Cigarettes:		
Not more than 3 lbs. per M	3.00	per M
More than 3 lbs. per M	7.20	per M
Tobacco and snuff:	.18	per lb.
Cigarette papers:		
Pkg. of 25-50 sheets	.005	per pck.
Each additional 50 sheets or fraction	.005	per pck.
Cigarette tubes:	.01	per 50

the gift tax, and the estate tax, the construction of required progressive rate scales in accord with the respective taxpaying capacities of individuals is rendered extremely difficult. Thus, in a certain sense, some excise taxes may be viewed as taxes which supplement the progressive income tax by taking a little more from the particular individual who finds himself able to dispose of part of his income on such commodities as are not too obviously essential for his well-being. In this respect, liquor and tobacco taxes appear to be more suitable than most other types of indirect taxes.

The final resting place of the burden imposed by tobacco and liquor taxes can be determined with greater precision than that for most of the other indirect taxes. Especially, is it difficult to ascertain the incidence of those indirect taxes which enter into the cost of doing business. Furthermore, the burden of liquor and tobacco taxes rests upon consumers who have at least a theoretical choice between abstaining from these commodities or using them at the expense of high taxes. To consider the replacement of liquor and tobacco taxes with excises which would burden the general public would thus be tantamount to lowering the standard of living of the low income classes irrespective of whether or not they had chosen to indulge in the highly taxed luxuries, liquor and tobacco. While the assumption underlying this analysis, that is, that liquor and tobacco do not constitute essentials for the maintenance of a decent standard of living, may be debated, its relative validity stands without dispute.

Assuming that the use of some excises cannot be avoided in the present and probable near future state of the Federal fiscal system, it may be maintained that so long as some reliance must be placed upon consumption taxes, heavy taxes upon few properly selected and widely used commodities are probably more equitable than lower taxes upon a large number of commodities.

In the light of the well-established and significant position of these excises in the Federal tax structure and, furthermore, in view of the necessity of retaining for a time even some of the less desirable miscellaneous excises, suggestions for the revision of the liquor and tobacco excises are not now undertaken.

Oleomargarine:

The taxes on oleomargarine have been in effect uninterruptedly for half a century and in recent years have produced approximately $2,500,000 per annum. On fiscal grounds alone there appears to be

no clear case for the retention of these levies. However, they were originally enacted and subsequently retained primarily for the purpose of protecting dairying and agriculture from the severe competition which would have prevailed had oleomargarine production remained unrestricted. The considerations which must govern the appraisal of these levies transcend economic grounds not at present discussed.

Appendix

APPENDIX "A"

(See page 7 of this memorandum for comments on the phases of the Miscellaneous Tax Unit Reports, contained in the appendix.)

REPORTS

OF THE

MISCELLANEOUS TAX UNIT

UPON THE

HISTORY AND APPLICATION

OF

VARIOUS MISCELLANEOUS TAXES

TREASURY DEPARTMENT

WASHINGTON

OFFICE OF
COMMISSIONER OF INTERNAL REVENUE

ADDRESS REPLY TO
COMMISSIONER OF INTERNAL REVENUE
AND REFER TO

November 5, 1936.

MT:DC

MEMORANDUM FOR:

Mr. George C. Haas,
Director of Research and Statistics,
Treasury Department.

Pursuant to the instructions of the Secretary, as given in a memorandum dated August 28, 1936, there is transmitted herewith, for use in the tax studies now being made by your office, reports with respect to the various taxes (other than the capital stock tax, estate tax, gift tax, and the taxes imposed under the Carriers' Taxing Act and Title VIII of the Social Security Act) administered by the Miscellaneous Tax Unit of the Bureau.

The reports have been prepared in accordance with the suggestions made by your office and set forth as to the respective taxes (1) the amount of revenue derived for the fiscal year ended June 30, 1936, (2) estimated yield for the fiscal year ending June 30, 1937, (3) the statutory background or a summarized history of the tax, (4) the economic basis, i.e., whether the tax is an excise or is regulatory in scope, the industry concerned, number of persons filing returns, etc., (5) inequities or conflicts in the subjects taxed, tax avoidances, etc., (6) administrative difficulties, and (7) a recommendation as to the continuance or reenactment of the tax with a suggestion of such amendments as are considered desirable. The reports have been grouped according to the Revenue Acts or statutes under which the several taxes are imposed beginning with the latest Revenue Act in point of time and so on down to the earliest taxing statute still in force. For convenience and quick reference in the use of this material, a table of contents and subject index have also been prepared.

(Signed) D. S. BLISS,
Deputy Commissioner.

APPROVED:

(Signed) CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

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REVENUE ACT OF 1934

REVENUE ACT OF 1932

MISCELLANEOUS REGULATORY STATUTES (continued)

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TAX ON PROCESSING OF CERTAIN OILS

Section 602½ of the Revenue Act of 1934.

Yield for the fiscal year - 1936 - $ 27,691,080.79
Yield for the fiscal year - 1937 - 30,000,000.00 Estimated
Approximate number of taxpayers -- 340
Rates of tax - 3 and 5 cents a pound.

Statutory background. - Section 602½(a) of the Revenue Act of 1934, effective May 10, 1934, imposed a tax at the rate of 3 cents per pound upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, sesame oil, sunflower oil and combinations or mixtures of such oil, which was paid by the processor. An additional tax of 2 cents per pound was imposed on the first domestic processing of coconut oil or any combination or mixture of coconut oil except when it was established that such coconut oil (1) was wholly the production of the Philippine Islands or any other possession of the United States, or (2) was produced wholly from materials the growth or production of the Philippine Islands or any other possession of the United States, or (3) was brought or produced from materials brought into the United States on or before the 30th day after the enactment of the Act, or (4) was purchased under a bona fide contract entered into prior to April 26, 1934, or produced from materials purchased under a bona fide contract entered into prior to April 26, 1934. All taxes collected with respect to coconut oil wholly of Philippine production or produced from materials wholly of Philippine growth or production, were held as a separate fund to be paid to the Treasury of the Philippine Islands subject to the condition that if at any time the Philippine Islands provided by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine Treasury would be made. First domestic processing was defined as the first use in the United States in the manufacture of an article intended for sale. The use of palm oil in the manufacture of tin plate was specifically exempted from the tax. No similar taxes upon these products were imposed under any of the prior Revenue Acts.

Section 402 of the Revenue Act of 1935, effective August 30, 1935, imposed a compensatory tax upon the importation into the United States of any products which although manufactured or produced from any of the oils subjected to tax under section 602½(a) of the Revenue Act of 1934, or section 601(c)(8) of the Revenue Act of 1932 (relating to an import tax on fish and marine oils), did not come within the scope of the taxes levied under these sections. Section 402 of the Revenue Act of 1935 was to continue in effect only during the time section 602½ of the Revenue Act of 1934 and section 601(c)(8) of the Revenue Act of 1932 were in existence, but such section 402 was repealed on August 21, 1936, by section 703 of the Revenue Act of 1936.

Section 702 of the Revenue Act of 1936, effective August 21, 1936, amended section 602½ of the Revenue Act of 1934, by eliminating sesame

oil and sunflower oil from the taxable products, and by adding thereto fatty acids and salts of the remaining taxable oils, or coconut oil, palm oil, and palm-kernel oil. The section was further amended to provide that the tax shall not apply to (1) fatty acids or salts resulting from a previous first domestic processing taxed under section 602½, or upon which an import tax had been paid under section 601(c)(8) of the Revenue Act of 1932, as amended, and (2) any combination or mixture by reason of its containing an oil, fatty acid or salt with respect to which there was a previous first domestic processing, or upon which an import tax was paid under section 601(c)(8) of the Revenue Act of 1932, as amended. Although sesame oil and sunflower oil were eliminated from the taxable products, the tax still applies to such oils, or combinations or mixtures thereof, as were imported prior to August 21, 1936.

The tax will remain in effect until Congress makes provision for its repeal.

Economic basis. - The tax is an excise tax upon the processing of the specified products and is paid by the processor thereof.

Some of the more important industries affected by the tax are domestic crushers of copra, domestic producers of refined oil, manufacturers of soap, cooking oils and shortening, salad oils, paints, textiles, and manufacturers of foods, such as pies, pastries, etc.

It should be noted that the tax on coconut oil is 3 cents per pound, and in some cases, 5 cents per pound. The average cost of refined coconut oil was approximately 1½ cents per pound at the time the tax first became effective. The tax, therefore, equaled approximately at least twice the value of that product and correspondingly increased the cost of such oil to the users thereof. In some cases, tax was imposed on the use of a product of such oil which was in fact a waste product, the value of which prior to its processing was negligible. These conditions also applied to the other oils subjected to the tax. Consequently, the tax has encouraged the use of substitutes for the taxable products. These substitutes consisted of domestic tallows and oils and of foreign oils not included in the taxing statute, one in particular being babassu oil.

Administrative difficulties. - Many difficulties arose in the administration of the tax, primarily because the tax involved a comparatively new field of taxation and because the law was silent as to its application with respect to various trade practices. The law was not definite enough to determine the problems which did arise and, moreover, contained many "loopholes". In addition, the tax conflicted with import dues and was confused by many taxpayers with the processing taxes imposed under the Agricultural Adjustment Act. It is believed that these difficulties have been overcome to a great extent through the amendments enacted in section 702 of the Revenue Act of 1936. However, the amendments are so recent that the Bureau is without sufficient experience to indicate how the amended statute will function in actual practice or to show what new problems, if any, will arise under the amendments.

The audit of the returns of this tax requires a detailed examination of production records, the uses of the products by the taxpayer, sales and other distribution records, and the evidence relied upon to support claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined.

Since this tax was not recommended nor sponsored by the Treasury Department, it is immaterial to the Bureau whether it is continued or repealed. It should be noted, however, that the tax will continue indefinitely under the present law. Unless the tax is repealed in the near future, certain amendments will doubtless be necessary from time to time to correct inequities and to prevent tax avoidance. The most recent amendments became effective August 21, 1936, and in view of the short time the revised law has been in operation, the Bureau prefers to reserve recommendations for a time until the effect of the amendments, as revealed by actual developments, can be studied and appraised.

TAX ON THE SALE OF CRUDE PETROLEUM

Section 604 of the Revenue Act of 1934.

Yield for fiscal year - 1936 - $ 563,766.88
Yield for fiscal year - 1937 - 520,000.00 Estimated
Number of taxpayers ---------- 694
Rate of tax - 1/25 of 1 cent per barrel of 42 gallons.

Statutory background. - Section 604 of the Revenue Act of 1934, effective June 9, 1934, imposes a tax on the sale of crude petroleum by the producer. The tax does not apply with respect to the sale of crude petroleum produced from any well which is not capable of producing more than 5 barrels per day. As defined in this section, a taxable sale includes the refining of crude petroleum on the premises where produced, the removal of crude petroleum therefrom, or any transfer or other disposition of crude petroleum. The tax was levied originally at the rate of 1/10 of 1 cent per barrel of 42 gallons. Section 407 of the Revenue Act of 1935 reduced the rate to 1/25 of 1 cent per barrel of 42 gallons, effective September 1, 1935.

Section 604 specifically provides in subdivision (d) that any person subject to any of its provisions may be required, under a specific penalty, to give bond or other security for the protection of the revenue and to assure compliance with such section and other provisions of law applicable with respect to the tax. It also provides in subdivision (e) that records, reports and returns required under such section or any other applicable provision of law, shall, wherever held, be open to inspection at all reasonable hours by any duly authorized agent of the United States or any State having supervisory or regulatory powers over the production of crude petroleum.

This tax was enacted as an adjunct to section 9(c) of the National Industrial Recovery Act which prohibited the shipment in interstate and foreign commerce of petroleum or its products produced in excess of the amount permitted by a State law. Such section was later declared unconstitutional by the United States Supreme Court. The tax now operates as an adjunct to the Act of February 22, 1935 (Public No. 14 - 74th Congress), and to Executive Order No. 1 issued under the authority of such Act. The latter Act ceases to be in effect on June 16, 1937, but the tax will remain in full force and effect until specifically repealed by Congress.

Economic basis. - The tax is a regulatory measure in the form of an excise tax, and is payable by the producer of the crude petroleum. The tax applies to every person producing crude petroleum from wells capable of producing more than 5 barrels per day. The purchaser

is required by the statute to collect the tax from the producer by withholding the amount thereof from the purchase payments of the product. The purchaser in turn remits to the collector for the district in which the producing wells are located. A check of the returns for one month shows that the number of taxpayers filing crude petroleum sales tax returns is approximately 694.

The crude petroleum producing industry is one of the major industries of the country. The value of crude petroleum varies according to supply and demand, as well as to its grade or its lubricating oil or gasoline content and the area or district in which produced. Examination of statistical records, trade journals, etc., show that the price of crude petroleum ranges from 70 cents per barrel, of 42 gallons, to $2.45 per barrel according to its grade and the area in which produced.

Inequities. - With respect to any conflict in the subject taxed, it may be stated that most of the crude petroleum producing States levy excise taxes on crude petroleum. No information is available to show in what manner and to what extent the State taxes may conflict with the Federal tax.

From the standpoint of Federal taxation, crude petroleum is also affected, directly or indirectly, by the following taxes:

(a) The tax imposed on the importation of crude petroleum and derivatives of crude petroleum under section 601(c)(4) of the Revenue Act of 1932 at the rate of ½ cent per gallon. This tax is administered by the Bureau of Customs, and is paid by the importer.

(b) The tax imposed on the transportation of crude petroleum and liquid products thereof, under section 731 of the Revenue Act of 1932 at the rate of 4 per cent of the amount paid for such transportation, or a fair charge therefor where no such amount is paid. This tax is paid by the transporter.

(c) The tax on the refining or processing of crude petroleum in the United States imposed by section 605 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons.

(d) The tax on the sale or use of lubricating oil by the manufacturer or producer thereof, under section 601(c)(1) of the Revenue Act of 1932, as amended, at the rate of 4 cents per gallon. This tax is paid by the manufacturer or producer.

(e) The tax on the sale or use of gasoline by a producer of the importer thereof under section 617 of the Revenue Act of

1932, as amended, at the rate of 1 cent a gallon. This tax is paid by the producer or importer.

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that there has been no curtailment of consumption of crude petroleum due to the imposition of this tax. No evidence is available to show that the use of substitutes has been resorted to since the effective date of this tax.

Practically no evasions have been uncovered in the administration of this tax. The major companies "police" the industry very thoroughly to stabilize the price structure of the various products of crude petroleum. The industry itself and State and local authorities charged with the administration of similar taxes have cooperated fully with the Bureau in preventing tax evasions.

Administrative difficulties. - In view of the purpose of the statute, that is, to make available a complete record of the production and disposition of crude petroleum in the United States, and in view of the specific statutory provisions requiring complete and detailed information relative to the production, transportation and disposition of crude petroleum, the regulations of the Bureau must of necessity impose upon all branches of the industry handling or dealing in this product, the duty of assembling and keeping records containing all necessary information relative thereto. However, the records required by the regulations conform, insofar as possible, to the records usually maintained for business purposes by the various branches of the industry.

In this instance the audit work of the Bureau involves a determination of who is the producer within the meaning of the statute and a detailed examination of the opening and closing inventories, the production and disposition records, the lease under which the producing premises are operated and the terms thereof with respect to royalty interests in the production.

No statistics are available from which the actual cost of collecting this tax may be determined, but the administration indicates that the cost of collection is quite low.

In view of the purpose for which this statute was enacted, the Bureau makes no recommendation with respect to this tax as a source of revenue.

TAX ON THE REFINING OR PROCESSING OF CRUDE PETROLEUM IN THE UNITED STATES.

Section 605(a)(1) of the Revenue Act of 1934.

Yield for the fiscal year - 1936 - $ 561,235.89
Yield for the fiscal year - 1937 - 540,000.00 Estimated
Number of taxpayers ---------- 400
Rate of tax - 1/25 of 1 cent per barrel of 42 gallons.

Statutory background. - Section 605(a)(1) of the Revenue Act of 1934, effective June 9, 1934, imposes a tax on crude petroleum refined or processed in the United States. The tax was levied originally at the rate of 1/10 of 1 cent per barrel of 42 gallons. Section 407 of the Revenue Act of 1935 reduced the rate to 1/25 of 1 cent per barrel of 42 gallons, effective as of September 1, 1935.

In subdivision (b), section 605 provides in part as follows:

"Every refiner or processor shall (in addition to records otherwise required by law or regulation) keep such records as shall be prescribed by regulations under this section showing daily receipts, stocks, and disposals of crude petroleum and the names and addresses of the persons from whom received. Every person handling, transporting, storing, or dealing in any manner in crude petroleum shall keep such records and make such returns with respect to transactions in crude petroleum as shall be required by regulations under this section. Returns and records required under this section shall be open to inspection at all reasonable hours by any duly authorized representative of the Commissioner or any agency of the United States or any State having supervisory or regulatory powers over the production of crude petroleum".

The tax was enacted as an adjunct to section 9(c) of the National Industrial Recovery Act which prohibited the shipment in interstate and foreign commerce of petroleum or its products produced in excess of the amount permitted by a State law. Such section was later declared unconstitutional by the United States Supreme Court. The tax now operates as an adjunct to the Act of February 22, 1935 (Public No. 14 - 74th Congress), and to Executive Order No. 1 issued under the authority of such Act. The latter Act ceases to be in effect on June 16, 1937, but the tax will remain in full force and effect until specifically repealed by Congress.

Economic basis. - This tax is a regulatory measure in the form of a processing tax, and is payable by the refiner or processor of the crude petroleum.

The crude petroleum refining or processing industry ranks among the major industries of the country. A check of the returns for one month shows that the number of taxpayers filing returns on the refining or processing of crude petroleum is approximately 400.

The value of crude petroleum varies according to supply and demand, as well as the grade of its lubricating oil and gasoline content, and the area or district in which produced. Examination of statistical records, trade journals, etc., shows that the price of crude petroleum ranges from 70 cents per barrel, of 42 gallons, to $2.45 per barrel according to its grade and the area in which produced.

Inequities. - With respect to any conflict in the subject taxed, it may be stated that most of the crude petroleum producing States levy excise taxes on crude petroleum. No information is available to show in what manner and to what extent the State taxes may conflict with the Federal tax.

From the standpoint of Federal taxation, crude petroleum is also affected, directly or indirectly, by the following taxes:

(a) The tax imposed on the importation of crude petroleum and derivatives of crude petroleum under section 601(c)(4) of the Revenue Act of 1932 at the rate of ½ cent per gallon. This tax is administered by the Bureau of Customs, and is paid by the importer.

(b) The tax imposed on the transportation of crude petroleum and liquid products thereof, under section 731 of the Revenue Act of 1932 at the rate of 4 per cent of the amount paid for such transportation, or a fair charge therefor where no such amount is paid. This tax is paid by the transporter.

(c) The tax on the sale of crude petroleum imposed by section 604 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the producer.

(d) The tax on the sale or use of lubricating oil by the manufacturer or producer thereof, under section 601(c)(1) of the Revenue Act of 1932, as amended, at the rate of 4 cents per gallon. This tax is paid by the manufacturer or producer.

(e) The tax on the sale or use of gasoline by a producer or the importer thereof under section 617 of the Revenue Act of 1932, as amended, at the rate of 1 cent a gallon. This tax is paid by the producer or importer.

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that there has been no curtailment of consumption of crude petroleum due to the imposition of this tax. No evidence is available in this Bureau to show that the use of substitutes has been resorted to since the effective date of this tax.

To date there is no record of Federal tax avoidance or evasion with respect to this tax. Refineries must for their own purposes keep records of the amount of crude petroleum purchased, and of the products resulting from refining or processing. The only apparent method of tax avoidance or evasion is maintaining false records of the purchases of crude petroleum, production of the resulting products, and sales or disposition of such resulting products. The refining of crude petroleum is policed by the oil and gasoline industry to stamp out tax evasion, to prevent price cutting, and unfair competition. The industry itself and State and local authorities charged with the administration of similar taxes have cooperated fully with the Bureau in preventing tax evasions.

Administrative difficulties. - In view of the purpose of the statute, that is, to make available a complete record of the refining or processing of crude petroleum in the United States, and in view of the specific statutory provisions requiring, (in addition to records otherwise required by law or regulations) the keeping of records showing daily receipts, stocks, and disposals of crude petroleum and the names and addresses of the persons from whom received, the regulations must impose upon this branch of the industry the burden of keeping records containing all of the necessary information relative thereto. However, the records required by the regulations conform, insofar as possible, to the records usually maintained for business purposes by the branches of the industry affected.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, stocks on hand, receipts, disposition of the crude petroleum and the resulting products thereof, and the evidence relied upon in support of claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined, but the administration indicates that the cost of collection is negligible.

In view of the purpose for which this statute was enacted, the Bureau makes no recommendation with respect to this tax as a source of revenue.

TAX ON GASOLINE PRODUCED OR RECOVERED IN THE UNITED STATES FROM NATURAL GAS.

Section 605(a)(2) of the Revenue Act of 1934.

Yield for the fiscal year - 1936 - $ 38,751.80
Yield for the fiscal year - 1937 - 40,000.00 Estimated
Number of taxpayers ---------- 406
Rate of tax - 1/25 of 1 cent per barrel of 42 gallons.

Statutory background. - Section 605(a)(2) of the Revenue Act of 1934, effective June 9, 1934, imposes a tax on gasoline produced or recovered in the United States from natural gas. The tax was levied originally at the rate of 1/10 of 1 cent per barrel of 42 gallons. Section 407 of the Revenue Act of 1935 reduced the rate to 1/25 of 1 cent per barrel of 42 gallons, effective as of September 1, 1935.

In subdivision (b), section 605 provides in part as follows:

> "Every refiner or processor shall (in addition to records otherwise required by law or regulation) keep such records as shall be prescribed by regulations under this section showing daily receipts, stocks, and disposals of crude petroleum and the names and addresses of the persons from whom received. Every person handling, transporting, storing, or dealing in any manner in crude petroleum shall keep such records and make such returns with respect to transactions in crude petroleum as shall be required by regulations under this section. Returns and records required under this section shall be open to inspection at all reasonable hours by any duly authorized representative of the Commissioner or any agency of the United States or any State having supervisory or regulatory powers over the production of crude petroleum".

This tax was enacted as an adjunct to section 9(c) of the National Industrial Recovery Act which prohibited the shipment in interstate and foreign commerce of petroleum or its products produced in excess of the amount permitted by a State law. Such section was later declared unconstitutional by the United States Supreme Court. The tax now operates as an adjunct to the Act of February 22, 1935 (Public No. 14 - 74th Congress), and to Executive Order No. 1, issued under the authority of such Act. The latter Act ceases to be in effect on June 16, 1937, but the tax will remain in full force and effect until specifically repealed by Congress.

Economic basis. - This tax is a regulatory measure in the form of a processing tax and is payable by the person producing or recovering gasoline from natural gas. A check of the returns for one month shows the number of taxpayers filing returns on gasoline produced or recovered in the United States from natural gas is approximately 406.

The value of natural gasoline varies according to supply and demand, its grade, and the area in which it is produced. Examination of statistical records, trade journals, etc., shows that the producer's present prices range from 4 cents to 8 cents a gallon.

Inequities. - Since gasoline produced from natural gas is used almost exclusively for blending purposes in the production of commercial gasoline and motor fuels, the subject of this tax indirectly falls within the scope of the taxes imposed by the States and their subdivisions upon gasoline. No information is available, however, to show in what manner and to what extent the State taxes might be regarded as conflicting with the instant tax.

In addition to the instant tax, gasoline produced from natural gas is also subject to the tax imposed under section 617 of the Revenue Act of 1932, as amended, on the sale or use of gasoline by the producer. The Bureau has taken the position that natural or casinghead gasoline is a liquid product of crude petroleum. From that standpoint, the subject of the instant tax may also be considered as indirectly affected by the following Federal taxes:

(a) The tax imposed on the transportation of crude petroleum and liquid products thereof by pipe line under section 731 of the Revenue Act of 1932 at the rate of 4 per cent of the amount paid for such transportation, or a fair charge therefor if transported by the owner of the product. This tax is paid by the transporter.

(b) The tax on importation of crude petroleum levied under section 601(c)(4) of the Revenue Act of 1932 at the rate of ½ cent per gallon. This tax is administered by the Bureau of Customs and is paid by the importer.

(c) The regulatory tax on the sale of crude petroleum imposed by section 604 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the producer.

(d) The regulatory tax on the refining or processing of crude petroleum in the United States, imposed by section 605(a)(1) of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the refiner or processor.

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that the instant tax has not resulted in any curtailment of consumption or use of substitutes for the subject taxed.

To date there is no record of tax avoidance or evasion with respect to this tax. Producers of gasoline from natural gas must for their own purposes keep records of the gasoline produced or recovered from natural gas, and the sales or other disposition thereof. Since the tax is based on the number of barrels of gasoline actually recovered, the only method of tax evasion is by maintaining false records of production, sales, or other dispositions of the product. The oil and gasoline industry is effectively policed by member associations to stamp out price cutting and unfair competition with respect to sale of gasoline. The industry itself and State and local authorities who administer similar taxes have cooperated fully with the Bureau in preventing evasions of this tax.

Administrative difficulties. - In view of the purpose of the statute, that is, to make available a complete record of all gasoline produced or recovered in the United States from natural gas, and in view of the specific statutory provisions requiring, (in addition to records otherwise required by law and regulations) the keeping of records showing daily records of receipts, production, stocks, and disposals of this product, the regulations must impose on this branch of the industry the burden of keeping records containing all of the necessary information relative thereto. However, the records required by the regulations conform, insofar as possible, to the records usually kept by the branches of the industry affected.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, stocks on hand, production of gasoline from natural gas, the disposition thereof, and the evidence relied upon in support of any claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined, but the administration indicates that the cost of collection is quite low.

In view of the purpose for which this statute was enacted, the Bureau makes no recommendation with respect to this tax as a source of revenue.

TAX ON SALE OR USE OF LUBRICATING OIL

Section 601(c)(1) of the Revenue Act of 1932.

Yield for fiscal year - 1936 - $ 27,102,831.57
Yield for fiscal year - 1937 - 27,500,000.00 Estimated
Number of taxpayers ---------- 455
Rate of tax - 4 cents per gallon.

Statutory background. - The Federal tax at the rate of 4 cents a gallon on the sale or use of lubricating oil was first imposed by section 601(c)(1) of the Revenue Act of 1932. As originally enacted by Congress, the tax was to be effective during the period from June 21, 1932 to July 1, 1934, inclusive. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress further extended the date to July 1, 1937. Unless further extended, the tax will be automatically repealed as of July 1, 1937.

Section 4(b) of the Act approved June 16, 1933, (Public No. 73 - 73d Congress), effective July 1, 1933, amended section 601(c)(1) of the Revenue Act of 1932, to exempt all sales of lubricating oil by the manufacturer or producer thereof, to another manufacturer or producer of lubricating oil for resale, and provided that for the purpose of the tax, such vendee shall be considered the manufacturer or producer of such lubricating oil.

Section 601(c)(1) of the Revenue Act of 1932, as amended, was further amended by section 603 of the Revenue Act of 1934, to require, under a specific penalty, taxpayers liable for this tax to give bond, register with the collector of internal revenue for the district in which they file their returns, and to keep certain records.

Economic basis. - The tax on lubricating oil is an excise tax payable by the manufacturer or producer thereof. The lubricating oil industry ranks among the largest industries in the country, and tax is being paid in almost every one of the 64 collection districts. A check of the returns filed for one month shows that the number of taxpayers filing lubricating oil sales tax returns is approximately 455. Examination of statistical papers, trade journals, etc., discloses that the manufacturer's sale price of lubricating oil depends upon supply and demand, the type of oil produced, the grade of crude oil from which produced, the production area from which such crude oil is obtained, and the locality in which the lubricating oil is sold. The refinery sales prices range from 5 cents to $1.00 a gallon.

Inequities. - With respect to any conflict in the excise tax on the

certain types of oils. No information is available showing to what extent the State taxes conflict with the Federal tax.

The following Federal taxes although not imposed upon the sale or use of lubricating oil, nevertheless, have a sufficient bearing upon that commodity to be considered in connection with the tax imposed under section 601(c)(1) of the Revenue Act of 1932:

(a) The tax imposed on the transportation of crude petroleum and liquid products thereof by pipe line under section 731 of the Revenue Act of 1932, effective June 21, 1932, at the rate of 4 per cent of the amount paid for such transportation, or of the fair charge therefor if transported by the owner of the product. This tax is paid by the transporter.

(b) The tax on importation of crude petroleum by section 601(c)(4) of the Revenue Act of 1932, effective June 21, 1932, at the rate of $\frac{1}{2}$ cent per gallon. This tax is administered by the Bureau of Customs, and is paid by the importer.

(c) The tax on the sale of crude petroleum imposed by section 604 of the Revenue Act of 1934, effective June 9, 1934, at the rate of 1/10 of 1 cent per barrel of 42 gallons. Section 407 of the Revenue Act of 1935, amended section 604 of the Revenue Act of 1934, effective September 1, 1935, to reduce the rate to 1/25 of 1 cent per barrel of 42 gallons. This tax is to be paid by the producer. This is merely a regulatory tax.

(d) The tax imposed on the refining or processing of crude petroleum in the United States by section 605(1) of the Revenue Act of 1934, effective June 9, 1934, at the rate of 1/10 of 1 cent per barrel of 42 gallons. Section 407 of the Revenue Act of 1935, amended section 605 of the Revenue Act of 1934, effective September 1, 1935, to reduce the rate of tax to 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the refiner or processor. This is merely a regulatory tax.

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that there has been no curtailment of consumption of the products enumerated in section 601(c)(1), due to the imposition of this tax. No evidence is available in this Bureau to show that the use of substitutes has been resorted to since the effective date of this tax.

While the measure of the tax in relation to the value of certain grades of lubricating oil, when sold by the producer, appears large the quantity basis used in the statute is the same as that adopted by

most of the State taxing authorities which have imposed taxes on this commodity since the enactment of the Revenue Act of 1932. In view of the almost daily fluctuation in lubricating oil prices, due to unfair competition by so-called bootleggers disposing of contraband products, price wars, etc., the quantity basis for tax measurement on such commodity is preferable for the reasons that it is definite and certain in amount, equitable to all branches of the industry, creates a constant source of revenue, and is easy of administration both by the industry and the Government.

Various tax evasion methods have been resorted to by certain branches of the industry, particularly among small operators and dealers, by purchasing lubricating oil tax free under exemption certificates for nonlubricating uses or purposes, and then using or reselling it for lubrication. In other cases lubricating oil has been sold or shipped as nontaxable greases. The major companies of the petroleum industry are thoroughly organized into associations known as the American Petroleum Institute, National Petroleum Association, and the Western Petroleum Association, and such organizations are policing the industry for tax evasion, in order to stamp out price cutting and unfair competition. Any irregularities relating to tax avoidance or evasion are promptly reported to the Federal and State taxing authorities. Federal lubricating oil tax evasion has been found to be a minor administrative problem.

Administrative difficulties. - No involved Bureau procedure is required with respect to the administration of this tax. The greatest difficulty encountered so far has been the determination of the products included in the term "lubricating oil" as used in the statute.

For a time considerable difficulty was encountered by reason of the misuse of exemption certificates to transfer lubricating oil through a number of hands tax free to the last producer-purchaser in the chain. This abuse of exemption certificates is considered to have been due to the fact that the language originally used in the Revenue Act of 1932 was so strict as to exemptions that it did not wholly accomplish its purpose of "preventing the pyramiding of tax" and it did not place all producers on an equitable marketing basis. For instance, as originally enacted, if a producer sold to a dealer who in turn sold to a second producer of lubricating oil, the second producer was forced to purchase the product on a tax-paid basis, thus requiring the investment of a larger capital to carry his tax-paid inventory than required for an equal volume in tax-free inventory. However, the administrative amendments covered by the Act of June 16, 1933 (Public No. 73 - 73d Congress) and by section 401(b) of the Revenue Act of 1935, have removed most of the discriminations and irritations which tempt taxpayers to try shortcuts and strategems, so that under the present amendments the tax certificates follow the normal course of business practice.

The statute, as amended, requires the keeping of all necessary records relating to the taxpayer's liability for this tax and to claims for refund, credit, or exemption. This necessarily requires some additional bookkeeping records which may have been unnecessary for the taxpayer's purposes prior to the imposition of the tax. However, the records required by the Bureau regulations have been simplified as much as possible to conform to the ordinary records usually kept by the taxpayers in this industry and at the same time protect the Government's interest from tax avoidance and evasion.

The audit of returns of this tax requires a detailed examination of the opening and closing inventories, production records, plant uses of the product, sales and distribution records, and of the evidence supporting claims for exemption, refund, or credit.

While the collection of this tax has involved some administrative difficulties, it is believed that on the whole and particularly in view of the high yield, the collection cost is very low.

It is believed that no revision of the statute or the forms used in connection therewith is necessary at this time.

In view of the substantial revenue derived and since the administration has reached the point where but little difficulty is to be expected in the collection of the tax, it is the opinion of the Bureau that the instant tax on lubricating oil should be continued.

TAX ON BREWER'S WORT AND MALT PRODUCTS

Section 601(c)(2) of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 1,008,273.85
Yield for the fiscal year - 1937 - 1,000,000.00 Estimated
Number of taxpayers ---------- 40
Rate of tax - Brewer's wort - 15 cents per gallon.
Malt products - 3 cents per pound.

Statutory background. - The tax on the sale of brewer's wort, liquid malt, malt syrup, and malt extract by the manufacturer, producer, or importer thereof, was first imposed by section 601(c)(2) of the Revenue Act of 1932, effective June 21, 1932. The taxes are levied at the rates of 15 cents a gallon on brewer's wort and 3 cents a pound on liquid malt, malt syrup and malt extract, fluid, solid, or condensed, made from malted cereal grains in whole or in part. This section specifically exempts the sale of malt products by the manufacturer, producer, or importer to a baker for use in baking or to a manufacturer, or producer, of malted milk, medicinal products, foods, cereal beverages, or textiles, for use in the manufacture or production of such products. The section also provides that liquid malt containing less than 15 per cent of solids by weight shall be taxable as brewer's wort. By the Act of June 18, 1934 (Public No. 396 - 73d Congress), effective June 18, 1934, the exemption mentioned was enlarged to include sales of malt products by the manufacturer, etc., "for resale" to bakers or to manufacturers or producers of malted milk, etc.

As originally enacted by Congress, section 601(c)(2) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - This tax is an excise tax, but, due to the rate imposed, acts as a regulatory measure. The tax is payable by the manufacturer, producer, or importer, on his sale or use of the enumerated products. These products were used to manufacture beer in violation of the Prohibition laws. The industry is small and appears to be decreasing since repeal of Prohibition. This is indicated by the fact that in the fiscal year 1933, tax on brewer's wort was paid in 33 of the 64 collection districts, and on malt products in 31 of such districts, whereas for the fiscal year 1935, tax was paid in but 10 and 20 collection districts, respectively. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 40.

No statistics are available in this Bureau from which the value of the products taxed may be determined, but in view of the nature of such products and the purposes for which used, the price evidently varies to a great extent according to supply and demand, channels of distribution, quality of the product, and the season of the year and the location in which sold.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

A conflict with respect to Federal taxes may result by reason of the taxes imposed on distilled spirits and liquors.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturer's selling prices, no accurate comparison can be made. It would seem, however, from the retail prices of such products that the tax may be considered excessive.

It is believed that an economic survey of this industry will show that generally there has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

No flagrant attempts at tax avoidance or evasion have been disclosed in connection with the administration of this tax.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

No appreciable administrative difficulties have been encountered with respect to this tax, except in determining whether certain products were taxable as brewer's wort, or as a malt porduct, and in locating small manufacturers who supply law violators.

The audit of returns of this tax entails the usual verification of production and sales or other disposition records.

No statistics are available from which the actual cost of collecting this tax may be determined but the cost of collection is not out of line with the average cost of collecting the respective miscellaneous and sales taxes.

Since the repeal of the Eighteenth Amendment obviates any need for the retention of the tax on brewer's wort and on malt products, it is recommended that the expiration date of the tax be not further extended.

TAX ON GRAPE CONCENTRATE, EVAPORATED GRAPE JUICE, AND GRAPE SYRUP.

Section 601(c)(3) of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $1,839.99
Yield for the fiscal year - 1937 - (None estimated, Tax repealed.)
Number of taxpayers ---------- 5
Rate of tax - 20 cents a gallon.

Statutory background. - Section 313(a) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax on all prepared syrups and extracts, which included grape products falling within the category (intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if so sold for not more than $1.30 per gallon, tax of 5 cents per gallon; if so sold for more than $1.30 and not more than $2.00 per gallon, a tax of 8 cents per gallon; if so sold for more than $2.00 and not more than $3.00 per gallon, a tax of 10 cents per gallon; if so sold for more than $3.00 and not more than $4.00 per gallon, a tax of 15 cents per gallon; and if so sold for more than $4.00 per gallon, a tax of 20 cents per gallon.

Section 313(b) of the Revenue Act of 1917 imposed a tax at the rate of 1 cent a gallon on all unfermented grape juice sold by the manufacturer, producer, or importer, in bottles or other closed containers.

These taxes were repealed on February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, reenacted the tax on all unfermented grape juice sold by the manufacturer, producer, or importer in bottles or other closed containers, but changed the rate of tax to 10 per cent of the price for which sold. This tax remained in effect until its repeal on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(b) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax of 2 cents per gallon on all unfermented fruit juices, in natural or slightly concentrated form, or such fruit juices to which sugar had been added (as distinguished from finished or fountain syrups), intended for consumption as beverages with the addition of water or water and sugar, and upon all imitations of any such fruit juices, sold by the manufacturer, producer, or importer. This tax was repealed on June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 601(c)(3) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax at the rate of 20 cents a gallon on the sale by the manufacturer, producer, or importer of grape concentrate, evaporated grape

juice, and grape syrup (other than finished or fountain syrup) containing more than 35 per cent of sugars by weight. This section specifically exempted the sale of any such products which contained a preservative sufficient to prevent fermentation when diluted, and also exempted sales to a manufacturer or producer of food products or soft drinks for use in the manufacture or production of the latter products.

As originally enacted by Congress, section 601(c) (3) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. However, section 336 of the Liquor Tax Administration Act repealed this tax effective June 27, 1936.

Economic basis. - This tax was an excise tax and served also as a regulatory measure. The tax was paid by the manufacturer, producer, or importer on his sale of the taxable products. These products were used by consumers and others to manufacture intoxicating wines and liquors in violation of the Prohibition laws. The industry is comparatively small and appears to be decreasing since the repeal of prohibition. This is indicated by the fact that in the fiscal year 1933, this tax was paid in only 13 of the 64 collection districts, whereas in the fiscal year 1935, tax was paid in only 6 of such districts.

No statistics are available in this Bureau from which the value of the products taxed may be determined, but in view of the nature of such products and the purposes for which used, the price evidently varies to a great extent according to supply and demand, channels of distribution, quality of the product, and the location and season of the year in which sold.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

A conflict with respect to Federal taxes may have resulted by reason of the taxes imposed on distilled spirits and liquors.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturer's selling prices, no accurate comparison can be made.

It is believed that an economic survey of this industry will show that generally there was no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

No flagrant attempts at tax avoidance or evasion were disclosed in connection with the administration of this tax.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

No appreciable difficulties were encountered in the administration of this tax, except in determining the sugar content by weight of some of the products.

The audit of the returns for this tax required the usual examination of production and sales or other disposition records and verification of claims for exemption, refund, or credit.

In view of the repeal of the Eighteenth Amendment and the small amount of revenue obtained, it is recommended that this tax be not reenacted.

TAX ON TIRES AND INNER TUBES

Section 602 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 32,207,983.03
Yield for the fiscal year - 1937 - 32,250,000.00 Estimated
Number of taxpayers ---------- 150
Rate of tax - Tires - 2½ cents a pound.
Inner tubes - 4 cents a pound.

Statutory background. - The tax on tires and inner tubes was first imposed under section 900(3) of the Revenue Act of 1918, effective February 25, 1919. Under that Act the tax was levied at the rate of 5 per cent of the sale price on the sale by the manufacturer, producer, or importer of tires and inner tubes for automobile trucks, automobile wagons, other automobiles and motorcycles, when sold to any person other than a manufacturer or producer of automobile trucks, automobile wagons, other automobiles and motorcycles.

Section 900(3) of the Revenue Act of 1921, effective January 1, 1922, reenacted the tax on tires and inner tubes for automobile trucks, etc., as imposed by section 900(3) of the Revenue Act of 1918, without change.

Section 600(3) of the Revenue Act of 1924, effective July 3, 1924, reenacted the tax on tires and inner tubes for automobile trucks, etc., as imposed by section 900(3) of the Revenue Act of 1921, but reduced the rate of tax to 2½ per cent of the sale price.

It is to be noted that under the foregoing Revenue Acts the tax was imposed only on automobile and motorcycle tires and inner tubes.

Section 1200(a) of the Revenue Act of 1926, repealed the tax imposed by section 600(3) of the Revenue Act of 1924, on tires and inner tubes, effective as of February 26, 1926.

The tax was revived in section 602 of the Revenue Act of 1932, effective as of June 21, 1932, under which a tax is imposed on the sale or use of tires and inner tubes by the manufacturer, producer or importer, on the following basis:

> "(1) Tires wholly or in part of rubber, 2½ cents a pound on total weight (exclusive of metal rims or rim bases), to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.
>
> "(2) Inner tubes (for tires) wholly or in part of rubber, 4 cents a pound on total weight, to be determined under regulations prescribed by the Commissioner with the approval of the Secretary."

It is to be noted that the tax under section 602 of the Revenue Act of 1932 is not limited to tires and inner tubes for automobiles, etc., but applies to all types of tires and inner tubes, and that the tax is measured by the weight of the article instead of the sale price thereof, as prescribed in the previous Revenue Acts.

Section 620 of the Revenue Act of 1932, as amended, relating to tax-free sales of articles for use as material in the manufacture or production of, or as a component part of, another taxable article, specifically excludes tires and inner tubes from the provisions thereof. In other words, tires and inner tubes are considered as not being susceptible to further manufacture and, therefore, may not be sold tax free for such purposes.

Section 606(e) of the Revenue Act of 1932 provides that if tires or inner tubes are sold on or in connection with, or with the sale of an automobile or truck chassis, body, or motorcycle, a credit may be allowed against the tax due on the sale or use of such articles in an amount equal to, in the case of an automobile truck chassis or body, 2 per centum, and in the case of any other automobile chassis or body or motorcycle, 3 per centum (1) of the purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) if such tires or inner tubes were taxable under section 602 (relating to tax on tires and inner tubes); or (2) if such tires or inner tubes were taxable under section 622 (relating to use by manufacturer, producer, or importer) then of the price less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires or inner tubes are sold in the ordinary course of trade by manufacturers, producers, or importers thereof, as determined by the Commissioner.

Section 606(f) of the Revenue Act of 1932 as amended by section 212 of the National Industrial Recovery Act and Public Resolution No. 36 - 74th Congress provides that where prior to August 1, 1937, tires and inner tubes have been sold by the manufacturer, producer, or importer, and are on such date held by a dealer and intended for sale, the tax paid by the manufacturer, producer, or importer, will be refunded, or if the tax has not been paid, it shall be abated. This section also provides the manner in which such refunds and abatements shall be made.

As originally enacted by Congress, section 602 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to August 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to August 1, 1935. Public Resolution No. 36 - 74th Congress extended such date to August 1, 1937. Unless further extended, this tax is automatically repealed as of August 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the taxable products. Under the Bureau's interpretation of the word "tires", the tax applies to the sale of all rubber hoops or bands which fit or form the tread of

vehicle wheels, and to the inner tubes thereof. The tire and inner tube industry ranks among the larger industries of the country, and tax is being paid in 56 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 150.

Inequities. - With respect to any conflict in the subject taxed, it is possible that these products are indirectly affected by some of the excise taxes imposed by the several States. The State taxes, however, differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

With respect to the measure of the tax in relation to the value of the subject taxed, complaints have been made that the tax applies inequitably to tires for such articles as children's wagons, scooters, wheelbarrows, etc. Thus it is contended that computed on a weight basis the tax on tires for the articles mentioned equals approximately 50 per cent of the cost, whereas the tax on tires and inner tubes for automobiles, trucks, and motorcycles is only approximately 7½ per cent of the sale price thereof.

It is believed that an economic survey of the industry will show that there has been no retarding of trade, curtailment of consumption or use of substitutes due to the imposition of this tax.

There have been no flagrant attempts at tax avoidance or evasion with respect to this tax. However, a number of manufacturers of these products did attempt to avoid some of this tax by transferring, immediately preceding the effective date of the Act, large inventories of finished products to old or newly organized selling subsidiaries. The Bureau has held that the tax attaches to the subsequent sales made by the subsidiary companies.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined, but based on the experience of the Bureau, it is believed that this tax falls in the class of taxes having a low collection cost.

In view of the substantial revenues derived and the simplicity of its administration, this Bureau recommends that the tax on tires and inner tubes be continued.

TAX ON TOILET PREPARATIONS, ETC.

Section 603 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 13,301,794.65
Yield for the fiscal year - 1937 - 13,000,000.00 Estimated
Number of taxpayers ---------- 6,100
Rate of tax - (a) Perfumes, cosmetics, etc., 10 per cent of manufacturer's, producer's, or importer's sale price.
(b) Toothpaste, toilet soaps, etc., 5 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 600(g) of the Revenue Act of 1917, effective October 4, 1917, first imposed a Federal tax on the sale by the manufacturer, producer, or importer of perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet soaps and powders, or any similar substance, article or preparation by whatsoever name known or distinguished, used or applied or intended to be used or applied for toilet purposes. The tax was levied at the rate of 2 per cent of the sale price.

The tax on toilet preparations was continued in the Revenue Act of 1918, but the rate and basis of the tax were changed as follows:

Section 900(21), effective February 25, 1919, imposed a tax on the sale or lease of toilet soaps and toilet soap powders, at the rate of 3 per cent of the price for which sold; and

Section 907(a)(1), effective May 1, 1919, imposed a tax of 1 cent for each 25 cents or fraction thereof of the amount paid for perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet powders (other than soap powders), or any similar substance, article, or preparation by whatsoever name known or distinguished, used or applied or intended to be used or applied for toilet purposes, when sold by or for a dealer or his estate for consumption or use.

It is to be noted that the tax as imposed under the latter section was changed from a manufacturer's sales tax to a tax on a dealer's sale for consumption or use. In addition, this statute authorized the

Commissioner to prescribe the use of adhesive stamps as the medium for collecting the tax imposed under section 907(a)(1) and such tax was accordingly administered and collected as a stamp tax. The taxes so imposed by the Revenue Act of 1918 were repealed on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

The tax on toilet preparations, or articles used or applied or intended to be used or applied for toilet purposes, was revived by section 603 of the Revenue Act of 1932, effective June 21, 1932. Under this section the tax is again imposed on the sale by the manufacturer, producer, or importer, and is levied at the following rates:

> 10 per cent of the sale price with respect to perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous, and toilet powders, and any similar substance, article, or preparation, by whatsoever name known or distinguished; and
>
> 5 per cent of the sale price with respect to tooth and mouth washes, dentifrices, tooth pastes, and toilet soaps, and any similar substance, article, or preparation, by whatsoever name known or distinguished.

As originally enacted, section 603 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax will be automatically repealed as of July 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the articles specified. The tax on perfumes, etc., is being paid in every one of the 64 collection districts, while tax on tooth pastes, etc., is being paid in all but 4 of such collection districts. A check of the returns filed for one month shows the number of taxpayers filing returns of these taxes is approximately 6,100.

The prices for which the articles enumerated in this section are sold vary to a great extent according to cost and quality of the ingredients used, ownership of the formula for the product, the manufacturer thereof, extent of advertising, supply and demand, the character of the container of the product, and the channels through which distributed.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are indirectly affected by some of the excise

taxes imposed by the several States, but in general, the State taxes differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

The only conflicting Federal tax is that imposed by section 601(c)(1) of the Revenue Act of 1932 on the sale of lubricating oils. Certain of these oils are used as basic ingredients in the manufacture of certain hair oils, cosmetics, and creams. However, the administrative provisions of the statute lessen, if not entirely eliminate, a real conflict by permitting tax-free sales of materials for further manufacture between manufacturers of taxable articles.

While the tax applies to all manufacturers alike, its application may be inequitable under certain conditions. Some manufacturing chemists manufacture toilet preparations only in bulk which are sold to distributors who in turn package the product without any change in its form or consistency and sell it under their own brands or trade names as their own product. Thus, the same product may be marketed by various distributors under different brands or trade names. Other manufacturers package their product under their own brands or trade names for distribution to the trade in the form in which the toilet preparations are ultimately sold to consumers. The value of these products is attributable not to basic ingredients from which made, but to the demand created therefor usually through widespread and costly advertising. Hence, the bulk sales of the manufacturer in the first case are made on a much lower price level than the sales of the packaged product of the manufacturer in the second case. Since the tax is based upon the sale price of the taxable product, the first manufacturer bears a correspondingly lighter tax burden than the second manufacturer so that the tax might be regarded as discriminatory against the manufacturer who packages his own product for distribution under his own brands or trade names. As explained below, this fact has been taken advantage of by manufacturers desiring to minimize the tax.

With respect to the measure of the tax in relation to the value of the product, the margin of profit on these articles is tremendously high when compared to cost of ingredients and manufacture, but the apparently excessive mark-up is largely absorbed by advertising and selling costs. Many manufacturers have complained that the 10 per cent tax rate exceeds their profit.

It is believed that an economic survey of this industry will show that there has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

Due, perhaps, to the sharp competition prevailing in this industry, various schemes have been tried to avoid or evade the tax. The method most commonly used was grounded on the fact that a manufacturer selling

only bulk product would be taxed less than a manufacturer selling packaged product. Thus, in some cases, a corporation, which was engaged in manufacturing and distributing packaged product prior to enactment of the Revenue Act of 1932, would after the tax became effective organize subsidiary companies to carry on the manufacturing and packaging operations. Corporation "A" would be formed as the "manufacturer" and it would sell the bulk product at cost plus a nominal profit exclusively to corporation "B". The latter in turn would package the product and sell the entire output, again at cost plus a nominal profit, to the original or parent company. The parent company would continue as before to conduct the expensive advertising operations and sell the finished product to the trade. Since by this method, if successful, the tax would be restricted to the nominal cost of the "manufacturer" or corporation "A", it is readily apparent that the tax would be greatly minimized.

Section 619(a) and (b)(3) of the Revenue Act of 1932 provides that there shall be included in the price for which an article is sold any charge for coverings and containers of whatever nature and that if an article is sold otherwise than through an arm's-length transaction and at less than the fair market price, the tax shall be based on the price for which similar articles are sold in the ordinary course of trade by other manufacturers as determined by the Commissioner. These sections of law clearly indicate that Congress was cognizant of the fact that the corporate form could be used to circumvent the statute. The Bureau in considering these sections has taken the position that in a situation as outlined above, the sales between the related corporations are made otherwise than through an arm's-length transaction and that the fair market price is the price for which the articles are sold outside the affiliated group in the open market, or in this instance, the price for which the articles are sold by the parent or original company.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

The audit of the returns of this tax requires a detailed examination of the corporate set-up, the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

By reason of the various problems involved in the administration of this tax, the collection cost may be somewhat above the average for the respective miscellaneous and sales taxes.

Substantial revenue is obtained from this source and it is recommended that the tax be continued. However, to obviate any inequity, to lessen the possibility of tax avoidance, and to simplify the administration, it is suggested that the statute be amended to tax the sale of the person who prepares or packages toilet preparations in the form in which they are to be sold to the consumer for consumption or use, or amend the statute to specifically define "manufacturer, producer, or importer" to include a person who prepares and packages such preparations in the form in which sold to the consumer. For example, the following could be added to section 603 as subsection (b) and (c):

> (b) As used in this section the term "producer" includes any person who claims to have (1) any private formula, secret or occult art for making or preparing any of the articles enumerated in this section, or (2) who has or claims to have any exclusive right or title to the making or preparing of such articles, or (3) who prepares, utters, vends, or exposes any such articles for sale under any letters, patent or trademark, or (4) who (whether or not prepared by him under any formula, published or unpublished) bottles, or packages any product in a form in which it will be sold for consumption and holds it out or recommends to the public that such product is to be used or applied, or is intended to be used or applied for toilet purposes.
>
> (c) The provisions of section 620, subsections (1) and (2), as amended, shall not apply with respect to the sale of any of the articles enumerated in this section.

TAX ON FURS

Section 604 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 3,321,057.14
Yield for the fiscal year - 1937 - 2,750,000.00 Estimated
Number of taxpayers ---------- 2,100
Rate of tax - During the period June 21, 1932 to June 23, 1936, 10 per cent of the sale price.
On and after June 23, 1936, 3 per cent of the sale price.

Statutory background. - Section 900(19) of the Revenue Act of 1918, effective February 25, 1919, first imposed a tax on the sale or lease by the manufacturer, producer, or importer of articles made of fur on the hide or pelt and articles of which such fur was the component material of chief value. The tax was levied at the rate of 10 per cent of the sale price. This tax was repealed on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

The tax was revived, effective June 21, 1932, by section 604 of the Revenue Act of 1932 in the same form as imposed under the Revenue Act of 1918. The statute was amended by section 608 of the Revenue Act of 1934, effective May 10, 1934, to provide an exemption from the tax for articles selling for less than $75.00. The statute was further amended by section 810 of the Revenue Act of 1936, effective June 23, 1936, so as to reduce the rate of tax to 3 per cent of the sale price and to eliminate the exemption for articles selling for less than $75.00.

The statute at the present time imposes a tax on the sale by the manufacturer, producer, or importer of articles made of fur on the hide or pelt, and articles of which such fur is the component material of chief value, at the rate of 3 per cent of the sale price regardless of the price for which sold.

As originally enacted by Congress, section 604 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H. R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - This tax covers certain articles of wearing apparel which have a wide range in value. The tax applies not only to the luxurious class of fur coats, etc., but also in many instances falls upon cloth garments trimmed with cheap furs. The enterprises affected by the tax are several, namely, (a) manufacturers of fur trimmings, (b) manufacturers of articles made completely of fur, (c) manufacturers

of coats (cloth with fur trimmings), (d) manufacturers of suits (fur-trimmed) and (e) manufacturers of dresses (fur-trimmed). The tax also affects the many small neighborhood or retail furriers scattered throughout the country who manufacture articles of fur, as well as make fur repairs.

From the foregoing, it can be seen that in general, the size of the industry affected is large and that the tax is widely scattered in its application. Tax is being paid in all but 8 of the 64 collection districts. However, approximately 75 per cent of all collections are made in the Third District of New York. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 2,100.

Inequities. - The articles subjected to this tax are also subject to the local retail sales taxes wherever imposed. Insofar as known, there are no other taxes, whether Federal or State, which could be considered as conflicting with the instant tax.

The administration of the tax disclosed some attempts at avoidance or evasion. The most commonly used means of evasion prevailed during the effective period of the exemption for articles selling for less than $75.00. By reason of such exemption, certain manufacturers endeavored to bring their product within the exempt class by means of false billing under secret arrangements with buyers, or selling an inexpensive muff with an expensive fur garment and charging enough of the price of the fur garment against the muff, so as to reduce its sale price to less than $75.00, etc. The possibility of evading the tax by such means has been removed by the elimination of the exemption based on the amount of the sale price.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

The administration of the tax involved some difficulty with respect to (1) the determination in the case of fur-trimmed cloth garments whether the fur trimming constituted the component material of chief value so as to make the particular garment taxable, and (2) the determination of a "fair market price" in the case of articles sold by the manufacturer or producer only at retail. The latter question arose mainly from the practice followed by certain retail establishments of repairing fur garments and making individual garments on special order. These difficulties have been largely overcome. In cooperation with the members of the industry a standard formula has been devised for use in determining which material of fur-trimmed garments is the component of chief value and a specified percentage of the retail price has been adopted as representing the "fair market price" for use in computing the tax applicable to articles sold only at retail.

The audit of the returns of this tax requires a detailed examination of production and cost records, particularly to determine the relative values of the components of fur-trimmed garments, and the usual examination of sales and other disposition records and of the evidence relied upon to support claims for exemption, refund, or credit.

While the actual cost of collecting this tax is not known, it is believed that the collection cost is in line with the average cost of collecting the respective miscellaneous and sales taxes.

The Bureau recommends continuing the tax on fur articles in its present form.

TAX ON THE SALE OR USE OF JEWELRY, ETC.

Section 605 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 3,110,604.75
Yield for the fiscal year - 1937 - 290,000.00 Estimated
Number of taxpayers ---------- 2,900
Rate of tax - 10 per cent of manufacturer's sale price.

Statutory background. - The Federal tax on the sale by the manufacturer, producer, or importer of any article commonly or commercially known as jewelry, whether real or imitation, was first imposed under section 600(e) of the Revenue Act of 1917, effective October 4, 1917. The tax was levied at the rate of 3 per cent of the sale price.

The tax on jewelry, etc., was continued by section 905 of the Revenue Act of 1918. This section, however, changed the basis and rate of the tax to a 5 per cent tax on the sale by a dealer in "all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof or ivory (not including surgical instruments); watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars".

The provisions of section 905 of the Revenue Act of 1918 were reenacted in section 905(a) of the Revenue Act of 1921, effective January 1, 1922, without change, other than the addition of eyeglasses and spectacles to the articles exempted from the tax.

The 5 per cent tax on sales was continued by section 604(a) of the Revenue Act of 1924, but the scope of the tax was enlarged to impose the tax on the lease as well as the sale of jewelry by a dealer and the exemptions were extended to include (1) the sale (or lease) of musical instruments, silver-plated flat table-ware, and articles used for religious purposes, in addition to the sale of surgical instruments, eyeglasses and spectacles, (2) articles sold (or leased) for an amount not in excess of $30.00, and (3) watches sold (or leased) for an amount not in excess of $60.00. This tax was repealed by section 1200(a) of the Revenue Act of 1926, effective February 26, 1926.

The tax on jewelry was revived by section 605 of the Revenue Act of 1932, but under this section the tax was again imposed upon the sale or use by the manufacturer, producer, or importer and the rate was increased to 10 per cent of the sale price. The tax applied to all "articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof;

articles made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments or silver-plated ware, or frames or mountings for spectacles or eye glasses); watches; clocks; parts for watches or clocks sold for more than 9 cents each; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars". Any articles used for religious purposes, or any article (other than watch or clock parts) sold for less than $3.00 was specifically exempted from the tax. Section 609 of the Revenue Act of 1934, effective May 11, 1934, extended the exemption to apply to all articles subject to this tax when sold by the manufacturer, producer, or importer for less than $25.00.

As originally enacted by Congress, the tax under section 605 of the Revenue Act of 1932 was to be effective during the period from June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H. R. 324) further extended such date to July 1, 1937. The tax was repealed, however, by section 809 of the Revenue Act of 1936, effective June 23, 1936.

Economic basis. - The tax on jewelry, etc., was an excise tax payable by the manufacturer, producer, or importer on his sale or use thereof. In view of the fact that practically all wholesalers, jobbers, and retailers of jewelry fall within the category of a producer or importer, the tax applied to every branch of the industry, and tax was paid in every one of the 64 collection districts. A check of the returns for one month shows the number of taxpayers filing jewelry tax returns was approximately 2,900.

Inequities. - There was undoubtedly some conflict in the subjects taxed, but this was due entirely to the marketing and distribution methods of the industry. For instance, the tax was imposed specifically on the sale of either a mounting or a precious stone as components of articles of jewelry, as well as on the completely mounted article of jewelry. If an imported stone was mounted and sold after the effective date of the Act, the tax was due and payable on such sale. If after passing through the hands of several individuals, the stone found its way back to some branch of the industry, through trade-in transactions or outright sale, and the wholesaler, jobber, or dealer remounted the stone in a new or modern type mounting, the sale of the new completed article was taxable in its entirety and no credit could be allowed for the tax previously paid on the stone, since the last producer could not establish or prove that tax was previously paid on the stone. There was no doubt some conflict by reason of the various custom duties imposed on most of the articles specifically mentioned in the statute, especially pearls, precious and semiprecious stones, watches and parts therefor.

Jewelry, etc., falls primarily in the class of luxuries and in view of the fact that this tax was revived during the depression period, when consumers curtail their purchases of luxuries, it can hardly be said that any retarding in trade, if any existed, was due entirely to this tax. The Bureau is not aware of any use of substitutes due to this tax.

With respect to the measure of the tax in relation to the value of the product, there are no statistics available in this Bureau from which an accurate comparison may be made. However, it is not believed that a 10 per cent tax on a manufacturer's, producer's, or importer's sale price is excessive.

Tax evasion by certain branches of this industry has always been an administrative problem. In view of the nature of the articles taxed and the marketing and distribution methods of the industry generally, tax evasion was taken as a matter of course by certain taxpayers. Various methods were used, such as failure to keep any records, duplicate records for tax purposes, false billing of complete articles as separate components to bring the sale prices below the exemptions provided, new articles sold as second-hand, erroneous claims for credit for tax which was never paid, erroneous use of claims for exemption, claims for losses through robbery or fire when in fact the articles were sold, sales of components separately which were later assembled for the customer, and the smuggling of imports, especially diamonds, watches and watch parts.

Administrative difficulties. - There was no involved procedure relative to the administration of this tax. Many administrative difficulties were, nevertheless, encountered. The statute imposed the tax on the sale by the manufacturer, producer, or importer and the Department interpreted the term "producer" to include those persons who assembled component parts of jewelry to produce complete taxable articles. Thus, there were included in the term "producer", retailers, wholesalers, jobbers, etc. In cases which involved sales exclusively at retail where the same or similar articles were not sold at wholesale, the Commissioner under the authority of section 619(b) of the Revenue Act of 1932, determined a "fair market price" upon which to base the tax. Before arriving at such price, it was necessary to conduct an extensive field investigation to determine the various methods used by manufacturers, producers, or importers in arriving at the price for which similar articles were sold by them. In determining the basis on which the tax should be paid by persons selling jewelry, etc., at retail, it was found necessary to fix the open market wholesale price as a definite percentage of the actual retail price. Where articles were sold under an installment or conditional sales contract, a different percentage or formula was required. The fair market price in these cases was determined by taking the cost of materials assembled and adding a 15 per cent mark-up, which resulted in a price at which similar completed articles could be purchased from the manufacturer thereof. While it was realized that the

percentage so fixed would be a help to some and a hindrance to others, it was the opinion of this Bureau that a definite percentage of the retail sale price was the most equitable basis on which to compute the tax. The definite percentage fixed was applicable to all taxpayers selling taxable articles exclusively at retail, regardless of the section of the country in which they were engaged in business.

The statute required the keeping of all necessary records relating to the taxpayer's liability for the tax, and to claims for refund, credit or exemption. Such requirement may have necessitated additional bookkeeping changes and records, which were not necessary for the taxpayer's purposes prior to the imposition of this tax. However, the records required by the Bureau regulations were simplified as much as possible to conform to the ordinary records usually kept by taxpayers and at the same time protect the Government's interest from tax avoidance and evasion.

The audit of the returns of this tax required a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No recommendation is made with respect to the reenactment of the tax on jewelry.

TAX ON AUTOMOBILE CHASSIS, BODIES, AND MOTORCYCLES.

Section 606(a) and (b) of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 55,201,136.49
Yield for the fiscal year - 1937 - 56,200,000.00 Estimated
Number of taxpayers ---------- 950
Rate of tax - (a) Auto truck chassis and bodies, 2 per cent of manufacturer's, etc., sale price.
(b) Other auto chassis and bodies, and motorcycles, 3 per cent of manufacturer's, etc., sale price.

Statutory background. - Section 600(a) of the Revenue Act of 1917, effective October 4, 1917, first imposed the Federal tax on the sale by the manufacturer, producer, or importer of automobiles, automobile trucks, automobile wagons, and motorcycles at the rate of 3 per cent of the price for which sold.

While the tax was continued in the Revenue Act of 1918, its scope was slightly extended and the rate changed in part, effective February 25, 1919, as follows:

Section 900(1) imposed a tax of 3 per cent on the sale or lease by the manufacturer, producer, or importer of automobile trucks and automobile wagons (including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof); and

Section 900(2) imposed a tax of 5 per cent on the sale or lease of other automobiles and motorcycles (including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof).

The taxes as imposed under sections 900(1) and 900(2) of the Revenue Act of 1918 were continued without change in sections 900(1) and 900(2) of the Revenue Act of 1921.

It is to be noted that in the statutes cited above the tax was based on the sale or lease of the complete automobile truck, automobile wagon, or other automobile or motorcycle.

The basis of the tax was changed in the Revenue Act of 1924, effective July 3, 1924. Section 600(1) imposed a tax of 3 per cent on the sale or lease by the manufacturer, producer, or importer of (a) automobile truck chassis, and automobile wagon chassis, when sold or leased for an amount in excess of $1,000.00 and (b) automobile truck bodies and automobile wagon bodies, when sold or leased for an amount

in excess of $200.00, including in both cases, tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof. Section 600(2) imposed a tax of 5 per cent on the sale or lease by the manufacturer, producer, or importer of other automobile chassis and bodies and motorcycles, (including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof), without any exemption, however, in respect to the amount for which sold.

Both subsections (1) and (2) of section 600 of the Revenue Act of 1924 provided that the sale or lease of a complete automobile truck, automobile wagon, or other automobile would be considered, for purposes of the tax, as the sale or lease of a chassis and a body. In addition, the Revenue Act of 1924, like the Revenue Acts of 1918 and 1921, also specifically exempted tractors from the tax.

The tax imposed by section 600(1) of the Revenue Act of 1924 on the sale or lease of automobile truck and automobile wagon chassis and bodies was repealed on February 26, 1926, by section 1200(a) of the Revenue Act of 1926, while the tax imposed by section 600(2) of the Revenue Act of 1924 on the sale or lease of other automobile chassis and bodies and motorcycles was continued in section 600(1) of the Revenue Act of 1926 at the reduced rate of 3 per cent of the price for which such articles were sold or leased. The latter tax remained in effect until its repeal on May 29, 1928, by section 421 of the Revenue Act of 1928.

The tax was revived in section 606 of the Revenue Act of 1932, effective June 21, 1932, with the rates reduced in part and with certain other changes in the administrative provisions of the law. Subsection (a) of section 606 imposes a tax of 2 per cent on the sale (or lease) by the manufacturer, producer or importer of automobile truck chassis and automobile truck bodies, including, in both instances, tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof. Subsection (b) of such section imposes a tax of 3 per cent on the sale (or lease) by the manufacturer, producer or importer of other automobile chassis and bodies and motorcycles, including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith, or with the sale thereof. As in the prior Acts, this section provides that the sale of a completed machine shall be considered as the sale of a chassis and a body and likewise specifically exempts tractors from the tax.

As originally enacted, sections 600(a) and (b) of the Revenue Act of 1932 were to be effective during the period June 21, 1932 to August 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to August 1, 1935. Public Resolution No. 36 - 74th Congress (H. R. 324) extended such date to August 1, 1937. Unless further extended, this tax is automatically repealed as of August 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the articles specified. The automobile industry ranks among the largest industries of the country and tax is being paid in all but 2 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 950.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but the State taxes in general differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

A conflict from the standpoint of Federal taxes may result between this tax and the tax on parts and accessories imposed by section 606(c), or the tax on chassis where the body manufacturer is not the manufacturer of the chassis. However, the statute lessens, if not eliminates, any real conflict as to the tax on parts and accessories by providing that chassis and body manufacturers may purchase parts and accessories tax free under regulations prescribed by the Commissioner. This same privilege is afforded a chassis manufacturer with respect to purchasing bodies, but no such privilege is given the body manufacturer with respect to the purchase of a chassis.

An inequity in the application of the tax arises from the exemption of tractors. Tractors were originally exempted in the Revenue Act of 1918 on behalf of the farmer since tractors were then used mainly for agricultural purposes. Tractors, however, have been developed and improved so that now they compete seriously with taxable "machines".

After the World War, the automobile truck was developed to a stage where it took over freight transportation in this country in direct ratio to the increase of paved streets and highways. By 1925 the paving construction industry had solved the problem of building paved highways strong enough to accommodate the heaviest of motor vehicles. Since that time, not only has the production of automobile trucks increased, but of late years the trend has been, both in the truck and motor-bus fields, toward a two-unit vehicle, sometimes called a "commercial tractor". It consists of a truck chassis with a wheelbase so short as to be generally incapable of accommodating a body, and a trailer-body which is attached to the chassis by a "fifth wheel", or similar attachment. The number of such vehicles is increasing rapidly in proportion to the number of automobile trucks and automobile busses, as such tractors have the triple advantage of (1) being able by reason of their construction to carry heavier loads; (2) being able to turn in a much shorter radius; and (3) depositing loaded trailer bodies at delivery points and hauling away another loaded trailer body without waiting for the unloading of the first load. In addition to truck

tractors, there has recently developed an expanding demand for passenger trailers, consisting of a chassis containing the motive power, and a trailer containing living quarters.

At the present time neither the chassis nor the body of such "tractors" is taxed by reason of the exemption for tractors. Because of the confusion and competition existing between manufacturers who make both automobile trucks and tractor-trailer vehicles, certain of these manufacturers have expressed to the Bureau of Internal Revenue a desire to see such automotive tractors taxed where capable of operation on paved streets or paved highways. They have urged that a tax-exempt tractor be defined as one "not adaptable or legal for use on the highway". This language is not considered entirely satisfactory for the reason that the requirements of the different States vary as to the weight of vehicles which may be legally used on their highways. Although it is understood that the major automobile manufacturers have been notified through their association that such a recommendation has been made to the Bureau, this office has received no objection to this proposal. In fact, many representatives of individual manufacturers have expressed approval.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

No appreciable administrative difficulties are encountered in the collection of this tax. In fact, this tax is one of the least troublesome of the large revenue producers to administer.

The audit of the returns of this tax requires the usual examination of production and sales records and the evidence relied upon to support claims for exemption, refund, or credit.

The actual cost of collecting this tax has never been separated by the Bureau from the average cost of collecting taxes generally, but it is considered this tax is one of the easiest and cheapest to collect of all the taxes now in effect.

To remedy the inequity discussed above, it is recommended that subsections (a) and (b) of section 606 of the Revenue Act of 1932 be amended to read as follows:

> (a) Automobile truck chassis, automobile truck bodies, automobile trailer chassis, truck bodies for automobile trailers, and tractors (except agricultural tractors), including in each case parts or accessories therefor, sold on or in connection therewith or with the sale thereof, 2 per centum. A sale of an automobile truck shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

(b) Other automobile chassis and bodies, including passenger bodies for automobile trailers, and motorcycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) except agricultural tractors, 3 per centum. A sale of an automobile shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

It is estimated that such a change would produce additional tax of approximately $260,000.00 per year.

Since the tax yields a substantial revenue and entails but little difficulty in collection, it is recommended that the tax be continued either in its present form or in amended form as suggested herein.

TAX ON PARTS AND ACCESSORIES FOR AUTOMOBILE TRUCKS, OTHER AUTOMOBILES, AND MOTORCYCLES.

Section 606(c) of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 7,110,188.33
Yield for the fiscal year - 1937 - 7,500,000.00 Estimated
Number of taxpayers ---------- 2,600
Rate of tax - 2 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 900(3) of the Revenue Act of 1918, effective February 25, 1919, first imposed the tax on the sale or lease of parts and accessories, including tires and inner tubes, for automobile trucks, automobile wagons, and other automobiles and motorcycles, when sold to any person other than a manufacturer of such trucks, wagons, automobiles or motorcycles, at the rate of 5 per cent of the price for which sold or leased. The tax was re-enacted without change by section 900(3) of the Revenue Act of 1921, effective January 1, 1922. The tax was also reenacted by section 600(3) of the Revenue Act of 1924, effective July 3, 1924, in which section, however, the rate was reduced to 2½ per cent of the sale price. The tax was repealed on February 26, 1926, by section 1200(a) of the Revenue Act of 1926.

The tax was revived by section 606(c) of the Revenue Act of 1932, effective June 21, 1932, which imposes a tax on the sale by the manufacturer, producer, or importer of parts and accessories for automobile truck chassis and bodies, other automobile chassis and bodies, and motorcycles. This section specifically excludes tires and inner tubes as parts or accessories, and specifically includes within such term, spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of such chassis, bodies, or motorcycles, whether or not primarily adapted for such use. It also provides that parts or accessories may be sold tax free, under regulations prescribed by the Commissioner with the approval of the Secretary, to manufacturers or producers of such chassis, bodies, or motorcycles, who shall then be considered the manufacturer of the parts or accessories so purchased.

As originally enacted by Congress, section 600(c) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to August 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to August 1, 1935. Public Resolution No. 36 - 74th Congress (H. R. 324) extended such date to August 1, 1937. Unless further extended, this tax is automatically repealed as of August 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the articles specified. This tax affects any article, the primary use of which is to improve, repair, replace, or serve as a component part of automobile trucks or other automobile chassis or body, or motorcycles, and any article designed to be attached to or used in connection with such vehicle or article to add to its utility or ornamentation, as well as any article the primary use of which is in connection with such vehicle or article whether or not essential to its operation or use.

Inequities. - So far as known, no State has imposed a tax on automobile parts and accessories as such although such articles may be subject to local retail sales taxes upon sales by dealers.

With respect to the measure of the tax in relation to the value of the subjects taxed, it is apparent from the low rate of the tax that the tax is not excessive. There has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

There have been no flagrant attempts at tax avoidance or evasion with respect to this tax. A few manufacturers have for many years been selling their products to selling subsidiaries at an arbitrary sale price, or at less than the fair market price. In such cases, the Commissioner, under the authority of section 619(b)(3) of the Revenue Act of 1932, has computed the tax on the fair market price.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

The chief difficulties encountered have been the classification of certain articles which have uses for purposes other than as parts and accessories of automobiles and the determination of the taxability of certain articles which are entirely or partly rebuilt for further service. These difficulties have been largely overcome by thorough field investigations and surveys of the industry, and by several court decisions in specific cases.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined, but from the yield of revenue obtained and the fact that only a part of the time of a few employees is consumed

in the administration thereof, it is apparent that the cost of collection is lower than the average.

The taxing statute as now worded is clear and simple and since most of the difficulties have been overcome, no change in the law or the forms used in connection therewith is deemed necessary.

Substantial revenue is derived from this source and it is recommended this tax be continued.

TAX ON CHASSIS, CABINETS, TUBES, REPRODUCING UNITS, POWER PACKS, AND PHONOGRAPH MECHANISM, SUITABLE FOR USE IN CONNECTION WITH OR AS A PART OF RADIO RECEIVING SETS OR COMBINATION RADIO AND PHONOGRAPH SETS, AND PHONOGRAPH RECORDS.

Section 607 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 5,075,270.82
Yield for the fiscal year - 1937 - 5,300,000.00 Estimated
Number of taxpayers ---------- 300
Rate of tax - 5 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - The Federal tax on the sale of phonograph records by the manufacturer, producer, or importer thereof was first imposed by section 600(b) of the Revenue Act of 1917, effective October 4, 1917. The tax was levied at the rate of 3 per cent of the price for which such records were sold by the manufacturer, etc. This tax was reenacted by section 900(4) of the Revenue Act of 1918, effective February 25, 1919, with an increase in the rate from 3 to 5 per cent of the price for which such records were sold by the manufacturer, etc. This tax was repealed by section 1400(a) of the Revenue Act of 1921, effective as of January 1, 1922.

The Federal tax on the sale or use of chassis, cabinets, tubes, reproducing units, power packs, and phonograph mechanisms, suitable for use in connection with or as a part of radio receiving sets or combination radio and phonograph sets (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), by the manufacturer, producer, or importer thereof, was first imposed by section 607 of the Revenue Act of 1932, effective June 21, 1932, at the rate of 5 per cent of the price for which sold by the manufacturer, etc. This section also imposes a tax on the sale or use of "records for phonographs" by the manufacturer, etc., at the rate of 5 per cent of the sale price. It is to be noted that the tax is not imposed on the sale or use of "complete radio receiving sets", as such, but on the components specifically named.

As originally enacted by Congress, this tax was to be effective during the period from June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H. R. 324) further extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - The tax is an excise tax on the sale or use of the products named, by the manufacturer, etc., and is measured by his sale price thereof. This industry grew rapidly and spread over practically the whole

country when radio receiving sets became perfected for use in the home. While this tax is being paid in 39 of the 64 collection districts, the larger percentage thereof is confined to only 20 such collection districts. A check of the returns filed for one month shows that the number of taxpayers filing returns of this tax is approximately 300.

The prices for which components of radio receiving sets are sold depends largely upon the type of product produced, the patent rights, the royalties paid, supply and demand, the locality in which sold, and constant changing of models and types of cabinets.

Inequities. - There are no conflicting Federal taxes in this instance. However, it should be noted that some radio sets, parts or accessories made for use in automobiles are so constructed as to fit only in particular makes of cars. Hence, such sets, etc., being in the category of automobile accessories come within the scope of section 606(c) of the Revenue Act of 1932, and are taxable at the rate of 2 per cent of the manufacturer's sale price, instead of the 5 per cent tax upon radio components imposed by section 607.

It is not believed the tax has been a serious burden on the industry. The measure of the tax in relation to the value of the subjects taxed is low.

Attempts to avoid or evade this tax have been limited to a few methods or trade practices, the most common being that of organizing separately incorporated selling subsidiaries to which the manufacturing corporation sells its products at a fictitious sales price, or at less than the fair market price thereof. The Commissioner, under the authority of section 619(b)(3) of the Revenue Act of 1932, has determined a taxable sale price in such cases equivalent to that for which the product is ordinarily sold in the open market.

Administrative difficulties. - As this tax is not imposed on the sale of complete radio receiving sets, some of the components specifically taxed, particularly cabinets, are complete taxable articles in themselves when sold by the manufacturer, etc., thereof, and as such may not be sold tax free under the provisions of section 620(1) or (2) of the Revenue Act of 1932, as amended, for further manufacturing purposes. For that reason some difficulty has been encountered in the determination of the sale price of the various components, where a manufacturer sells a complete set for a flat sum, which set consists of certain components manufactured by him and assembled with components purchased from other manufacturers.

Thus, in the radio industry, the chassis manufacturer is usually the assembler of the complete radio receiving set, but almost universally he does not make the cabinets used by him. The cabinets are usually made by persons engaged in the wood-working industry. Under the present law, when the manufacturers of cabinets, tubes, etc., sell their products to the

chassis manufacturer or to the assembler of radio receiving sets, they are compelled to pay the tax on such sales, which the purchaser of the parts at first objected to, as it meant having a portion of his working capital tied up in tax prior to the time he assembled and sold the receiving set. Further, the receiving set manufacturer sells his assembled product for a lump sum price and, unless he shows his customers the sale price of the taxable components which he manufactured, as distinguished from those he purchased, he might be required to pay the tax on the full price at which the set is sold under the principle sustained by the United States Court of Claims in the case of Brewster and Company, Inc. v. United States, 1935 C.C.H. para. 9195. The Bureau, desiring to avoid duplicate taxation in the radio field, has made exhaustive investigations of the books of radio receiving set assemblers in order to ascertain the sale price of the taxable components actually manufactured by such assemblers. This procedure has not been satisfactory not only because it is at variance with the decisions made by the Bureau and by the courts with respect to all other taxes under Title IV, but because it is uncertain and shifts an undue burden and expense on the Government. Furthermore, it interferes with the taxpayer's usual method of keeping records and doing business.

The administrative difficulties could be minimized if the tax were broadened to include complete radio receiving sets as well as the component parts now enumerated. However, attention is called to the fact that this would increase the tax burden on this industry since the sale price of complete sets is higher than of the component parts unassembled and includes not only the cost of assembly and assembler's profit, but also many small parts not at present taxed when sold separately.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined. Although certain problems arose in the administration of the tax, it is believed, based on the administrative experience as a whole, that the collection cost is close to the average cost of collecting the respective miscellaneous and sales taxes.

The Bureau recommends the continuation or reenactment of this tax.

TAX ON MECHANICAL HOUSEHOLD TYPE REFRIGERATORS AND CERTAIN COMPONENTS THEREOF.

Section 608 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 7,939,063.75
Yield for the fiscal year - 1937 - 8,200,000.00 Estimated
Number of taxpayers ---------- 100
Rate of tax - 5 per cent of manufacturer's, producer's or importer's sale price.

Statutory background. - The Federal tax on the sale by the manufacturer, producer, or importer of household type refrigerators operated with electricity, gas, kerosene, or other means, and the sale of cabinets, compressors, condensers, expansion units, absorbers, and controls for, or suitable for use as a part of or with such household type refrigerators, except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus, was first imposed by section 608 of the Revenue Act of 1932, effective June 21, 1932, at the rate of 5 per cent of the sale price. This section provides that under regulations prescribed by the Commissioner with the approval of the Secretary, sales of refrigerator components may be made tax free to manufacturers or producers of refrigerators or refrigerating and cooling apparatus. It also provides that if refrigerator components are so purchased and resold by the vendee otherwise than on or in connection with, or with the sale of, complete refrigerators or refrigerating or cooling apparatus, manufactured or produced by such vendee, then for the purposes of the tax, such vendee shall be considered the manufacturer or producer of the refrigerator components so resold.

As originally enacted by Congress, this tax was to be effective during the period from June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36-74th Congress (H.R. 324) further extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - The tax is an excise tax on the sale or use of the products named by the manufacturer, producer, or importer and is measured by his sale price thereof. This industry has grown steadily since the perfection of mechanical refrigeration for use in the home. While tax is being paid in 34 of the 64 collection districts, all but a small percentage of the collections are made from a few manufacturers located in only 12 of the collection districts. A check of the returns filed for one month shows that the number of taxpayers filing returns on this tax is approximately 100.

The prices for which mechanical household type refrigerators, and components thereof, are sold depends largely upon the type and manner of operation, the patent rights and royalties paid, supply and demand, the locality in which sold and constant changes in models and types of cabinets.

Inequities. - The tax on electrical refrigerators was carefully drafted to fit conditions in the industry and no inequities, either as to rates or application, have been discovered.

There have been no attempts, so far as this Bureau is aware, to avoid or evade the tax.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes, and the industry has shown a uniform disposition to abide by the law and regulations.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined, but from the yield of revenue obtained and the relative absence of administrative difficulties, it is one of the most economical to collect.

The taxing statute as now worded is clear and simple and no revision of the provisions thereof, nor of the forms used in connection therewith, is deemed necessary.

The Bureau recommends that this tax be continued, either by further extension of the expiration date or by reenactment.

TAX ON SPORTING GOODS, GAMES AND PARTS OF GAMES

Section 609 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 5,591,122.72
Yield for the fiscal year - 1937 - 5,800,000.00 Estimated
Number of taxpayers ---------- 1,200
Rate of tax - 10 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 600(f) of the Revenue Act of 1917, effective October 4, 1917, first imposed the Federal tax on the sale by the manufacturer, producer, or importer of tennis rackets, golf clubs, baseball bats, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiards and pool balls, chess and checker boards and pieces, dice, games, and parts of games. The tax was levied at the rate of 3 per cent of the price for which such articles were sold. This section specifically exempted playing cards, and children's games and toys.

Section 900(5) of the Revenue Act of 1918, effective February 25, 1919, reenacted the tax on the sale of sporting goods, but enlarged the scope thereof to include tennis rackets, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles and cushions, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and goals, basketball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games, and all similar articles commonly or commercially known as sporting goods, and increased the rate of tax to 10 per cent of the sale price. This section also specifically exempted playing cards and children's games and toys. This tax was repealed on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

The tax on sporting goods, etc., was revived by section 609 of the Revenue Act of 1932, effective June 21, 1932, which imposes a tax of 10 per cent on the sale by the manufacturer, producer, or importer of tennis rackets, tennis racket frames and strings, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and uniforms, basketball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games, and all similar articles commonly or commercially known as sporting goods. This section specifically exempts playing cards and children's games and toys.

As originally enacted by Congress, section 609 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress, (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the taxable articles. The use of sporting goods, especially the articles named in the statute, has expanded to a great extent in the last few years and the tax indirectly affects practically all classes of citizens. The sporting goods industry is growing rapidly and tax is being paid in all but 6 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 1,200.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are affected by some of the excise taxes imposed by the several States. There is no information available to show the extent to which the State taxes may conflict with the Federal tax. No conflict exists between the instant tax and other Federal taxes.

With respect to the measure of the tax in relation to the articles taxed, it has been contended by some branches of the industry, especially manufacturers of cheaply made articles for use by children at play, that the tax rate of 10 per cent is practically prohibitive. However, it is believed that, applied to the industry as a whole, the tax in force is not excessive.

It is believed that an economic survey of the industry will show that generally there has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax. This conclusion is supported by the steady yearly increase in the revenue obtained from this source. It may be, however, that the tax has to some extent retarded the production of certain of the cheaply made specialties or children's articles.

There have been no flagrant attempts to avoid or evade this tax, although some confusion and objection has been encountered relative to the taxability of articles not specifically named in the law.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by those taxpayers for their own purposes.

The principal difficulty arises in the classification of taxable and nontaxable articles. Thus, questions are presented as to whether certain articles not specifically mentioned in the statute, nevertheless, come within the general classification of "sporting goods" and so are subject to the tax. Similarly, even as to articles specifically mentioned in the statute, questions arise as to whether particular articles, because of their size or type of construction, are within or beyond the scope of the tax.

Wherever possible, a line of demarcation has been drawn between the taxable and nontaxable articles based on the size or measurement of the particular article. Under certain sizes, specific articles are considered as mere toys or imitations incapable of a use for sport. For example, tennis rackets, baseball bats, baseball and football uniforms, and pool and billiard tables, when made under certain sizes are considered as not subject to the tax. This rule can not be applied in all cases since all of the articles specified in the statute are not susceptible to measurement for such purpose. Baseball gloves are such an exception. Baseball gloves are made in some instances of cheap imitation leather or canvas and very small in size to be sold in chain stores at retail prices as low as 10 cents. However, it has been found impossible to formulate a line of demarcation in such case which may be applied uniformly. Hence, baseball gloves and other articles similarly circumstanced are subjected to the tax regardless of the size, retail sale price, or materials of which made.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined. It is believed, however, that taken as a whole the cost of collecting this tax is about the general average.

In view of the substantial revenue derived therefrom, it is recommended that the tax on sporting goods be continued.

TAX ON FIREARMS, SHELLS, AND CARTRIDGES.

Section 610 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 2,494,574.54
Yield for the fiscal year - 1937 - 2,700,000.00 Estimated
Number of taxpayers ---------- 100
Rate of tax - 10 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 900(10) of the Revenue Act of 1918, effective February 25, 1919, first imposed the Federal tax on the sale by the manufacturer, producer, or importer of firearms, shells, and cartridges, at the rate of 10 per cent of the price for which sold. This section specifically exempted the sales of such articles for the use of the United States, any political subdivision thereof, the District of Columbia, or any foreign country while engaged against the German Government in the World War.

Section 900(7) of the Revenue Act of 1921, effective January 1, 1922, reenacted the tax on the sale of firearms, shells, and cartridges. This section imposed the tax on the lease of such articles by the manufacturer, producer, or importer, as well as on the sale thereof. This section also reenacted the exemptions on the sale of such articles for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, but omitted the exemption granted with respect to sales of such articles for the use of foreign countries engaged against the German Government in the World War.

The tax was reenacted without change in section 600(6) of the Revenue Act of 1924, effective July 3, 1924. The tax was repealed on February 26, 1926, by section 1200(a) of the Revenue Act of 1926.

The tax was revived by section 610 of the Revenue Act of 1932, effective June 21, 1932, which imposes a tax on the sale of firearms, shells, and cartridges by the manufacturer, producer, or importer, at the rate of 10 per cent of the price for which sold. This section specifically exempts the sale of such articles for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia. Pistols and revolvers are specifically excluded from the provisions of this section, since they are taxed under section 600(2) of the Revenue Act of 1926.

As originally enacted by Congress, section 610 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer on his sale or use of the articles specified. Tax is being paid in 30 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 100.

Inequities. - With respect to any conflict in the subjects taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

There is no conflict from the standpoint of the Federal taxes. While certain classes of firearms are taxed under the National Firearms Act, section 15 of that Act provides that the tax imposed by section 610 of the Revenue Act of 1932 shall not apply to any firearms specified as taxable under the National Firearms Act. Similarly, section 610 of the Revenue Act of 1932 specifically excludes pistols and revolvers which are taxed under section 600(2) of the Revenue Act of 1926.

This Bureau has no data as to whether there has been any retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax, except an apparent refutation in view of a constant increase in revenue receipts.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

No particular difficulties have been encountered in the administration of this tax.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined but since only a part of the time of the few employees assigned to this tax is consumed in the administration thereof, it is apparent that the cost of collection is extremely low.

The taxing statute as now worded is clear and simple. It is easy of administration, and no revisions are deemed necessary.

TAX ON CAMERAS

Section 611 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 577,925.70
Yield for the fiscal year - 1937 - 700,000.00 Estimated.
Number of taxpayers ---------- 50
Rate of tax - 10 per cent of manufacturer's sale price.

Statutory background. - A Federal tax at the rate of 3 per cent of the sale price was first imposed on the sale of cameras by the manufacturer, producer, or importer under section 600(j) of the Revenue Act of 1917, effective October 4, 1917.

Section 900(7) of the Revenue Act of 1918, effective February 25, 1919, continued the tax on cameras but extended the scope of the tax to include the lease of cameras and increased the rate of tax to 10 per cent of the price for which sold by the manufacturer, producer, or importer. This section also provided an exemption from the tax for cameras weighing over 100 pounds.

Section 900(4) of the Revenue Act of 1921, effective January 1, 1922, continued the tax on cameras weighing less than 100 pounds without change in rate and in addition extended the application of the tax to include lenses for such cameras.

Section 600(4) of the Revenue Act of 1924, effective July 3, 1924, reenacted section 900(4) of the Revenue Act of 1921 without change.

Section 1200(a) of the Revenue Act of 1926, effective February 26, 1926, repealed the tax.

The tax was revived by section 611 of the Revenue Act of 1932, effective June 21, 1932, under which a tax at the rate of 10 per cent of the sale price is imposed upon the sale by the manufacturer, producer, or importer of cameras (except aerial cameras) weighing not more than 100 pounds, and of lenses for such cameras.

As originally enacted by Congress, section 611 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - The tax is an excise tax and affects a comparatively small industry. Collections of the tax are reported in 21 of the 64 collection districts. A check of the returns for one month shows the number of taxpayers filing returns of this tax is approximately 50.

The usual factors controlling prices of staple products, such as supply and demand, quality of the product, methods and channels of distribution, and season of the year in which sold, apply in this instance.

Inequities. - In the absence of definite information as to unit sales prices of manufacturers, no comparison can be made between the tax and the value of the article taxed. However, considered from the standpoint of the retail price, it is believed the tax is not excessive.

An economic survey of this industry will most likely disclose that there has been no retarding of trade nor curtailment of consumption due to the imposition of the tax.

Administrative difficulties. - No appreciable difficulties have been encountered in the administration of this tax. A minor question arose as to the taxability of small, cheap, imported cameras which sold on the average at a retail price of 25 cents each, but which did actually take a picture. In view of the fact that they were capable of taking a picture, such cameras were held to be taxable.

No statistics are available from which to determine the actual cost of collecting this tax. However, experience indicates that such cost is extremely low.

The audit of returns of this tax requires a detailed examination of production and sales records, and of supporting evidence relative to claims for exemption, refund and credits.

In view of the substantial revenue yielded by the tax and the simplicity of its administration, this Bureau recommends that the tax on cameras be continued.

TAX ON MATCHES

Section 612 of the Revenue Act of 1932, as amended.

Yield for the fiscal year - 1936 - $ 7,106,359.21
Yield for the fiscal year - 1937 - 7,200,000.00 Estimated
Number of taxpayers ---------- 50
Rate of tax - (a) 2 cents a thousand.
(b) ½ cent a thousand on paper matches in books.
(c) 5 cents a thousand on fancy wooden matches, and matches having a stained, dyed, or colored stick, or stem, packed in boxes or in bulk.

Statutory background. - The Federal tax on the sale of matches by the manufacturer, producer, or importer thereof, was first imposed by section 612 of the Revenue Act of 1932, effective June 21, 1932, at the rate of 2 cents a thousand, except that in the case of paper matches in books, the tax shall be ½ cent a thousand. Section 611 of the Revenue Act of 1934, effective May 11, 1934, amended section 612 of the Revenue Act of 1932 to increase the tax from 2 cents to 5 cents a thousand in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, whether packed in boxes or in bulk.

As originally enacted the tax was to be effective during the period from June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - The tax is an excise tax paid by the manufacturer, producer, or importer on his sale of the taxable products. Fancy wooden matches, and matches having a stained, dyed, or colored stick or stem, are of the type of matches imported from Japan and other foreign countries. The higher rate of tax thereon discourages the importation of such matches, thereby protecting domestic manufacturers. This is a sizeable industry but is confined to about 15 manufacturers and a few importers. Tax is being collected in only 21 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns of this tax is approximately 50.

No statistics are available in this Bureau from which the value of the products taxed may be determined, since the tax is imposed on quantity and not sales price.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

In this instance, there is no conflict from the standpoint of Federal taxes. While the tax is imposed at varying rates according to certain specified classes or types of matches so as to indicate a possible inequity, no inequity apparently exists since the varying rates were imposed at the suggestion of domestic manufacturers to equalize competition.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturers' selling prices, no accurate comparison can be made. However, the imposition of the tax has not resulted in any increase in prices to the consumer.

The experience of this Bureau has disclosed but very few cases of attempted avoidance or evasion of the tax on matches.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

The audit of returns of this tax requires the usual examination of production and sales or other disposition records and verification of the evidence relied upon in support of claims for exemption and for refund or credit.

While no statistics have been compiled to show the actual cost of collection, it is apparent from the simplicity of its administration that the cost of collecting this tax is nominal.

It is recommended this tax be reenacted or the duration of the present statute be extended.

TAX ON CANDY

Section 613 of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Rate of tax - 2 per cent of the manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 900(9) of the Revenue Act of 1918, effective February 25, 1919, first imposed a tax on candy sold by the manufacturer, producer, or importer. The tax was levied at the rate of 5 per cent of the sale price. Section 900(6) of the Revenue Act of 1921, effective January 1, 1922, reenacted the tax on candy but changed the rate of tax to 3 per cent of the sale price. This tax was repealed on July 3, 1924, by section 1100(a) of the Revenue Act of 1924.

The tax on candy was revived by section 613 of the Revenue Act of 1932 under which section a tax of 2 per cent was levied on the sale of candy by the manufacturer, producer, or importer.

As originally enacted by Congress, section 613 of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. This tax was repealed, however, by section 614 of the Revenue Act of 1934, effective May 11, 1934.

Economic basis. - This tax was an excise tax payable by the manufacturer, producer, or importer of candy. The industry is quite large due to the nature of the product which has a wide and extensive use and appeal. Tax was paid in all of the 64 collection districts.

No statistics are available in this Bureau from which the value of the product taxed may be determined, other than by assuming that the wholesale value was eleven times the tax paid. The price evidently varies to a great extent according to supply and demand, channels of distribution, quality of the product, and the season of the year in which sold.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States. There was no conflict, however, from the standpoint of Federal taxes.

It is believed that an economic survey of this industry will show that generally there had been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

No appreciable difficulties were encountered in the administration of this tax. In a few instances, some difficulty arose in determining whether certain products constituted candy within the meaning of the statute. In some cases, it was necessary to fix a "fair market price" for candy sold at retail. Thus, a few candy manufacturers sold at retail through their own retail stores and had no sale at wholesale upon which to base the tax. In such cases, the Commissioner, under the authority of section 619(b)(1) of the Revenue Act of 1932, determined a "fair market price" for purposes of the tax. There were not many such cases involved and rather than determine one formula to cover the entire industry as was done in respect to several other taxes based upon a certain percentage of the wholesale price, each case was considered and adjusted on its own merits.

The audit of the returns of this tax required a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No recommendation is made with respect to the reenactment of this tax.

TAX ON CHEWING GUM

Section 614 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 807,279.40
Yield for the fiscal year - 1937 - 830,000.00 Estimated
Number of taxpayers ---------- 40
Rate of tax - 2 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - The Federal tax on the sale of all chewing gum or substitutes therefor by the manufacturer, producer, or importer was first imposed by section 600(1) of the Revenue Act of 1917, effective October 4, 1917, at the rate of 2 per cent of the price for which sold. The tax was reenacted in section 900(6) of the Revenue Act of 1918, effective February 25, 1919, with an increase in the rate of tax to 3 per cent of the sale price. The tax was repealed on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

The tax was revived by section 614 of the Revenue Act of 1932, effective June 21, 1932, which again fixed the rate at 2 per cent of the price for which the chewing gum or substitute is sold by the manufacturer, producer, or importer.

As originally enacted by Congress, section 614 of the Revenue Act of 1932, was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) extended such date to July 1, 1937. Unless further extended, this tax is automatically repealed as of July 1, 1937.

Economic basis. - This tax is an excise tax payable by the manufacturer, producer, or importer of chewing gum on his sale or use thereof. While the product is widely used, the industry is not very large and tax is being collected in only 29 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns of this tax was approximately 40.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but in general, the State taxes differ from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected. No conflict exists with respect to the Federal tax.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturers' selling prices, no accurate comparison can be made. The tax rate is so low that it is not an appreciable restraint on sales. Possibly,

because of the low rate of tax, no problems of tax avoidance or tax evasion have been involved.

It is believed that an economic survey of this industry will show that generally there has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes. No appreciable difficulties were encountered in the administration of this tax.

The audit of the returns of this tax requires the usual examination of sales records.

No statistics are available from which the actual cost of collecting this tax may be determined. In view of the simplicity of its administration, the collection cost undoubtedly is negligible.

Since the tax yields considerable revenue with little difficulty of collection, it is recommended that the tax be continued.

TAX ON CEREAL BEVERAGES

Section 615(a)(1) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 315(b) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax of 1 cent a gallon on carbonated beverages (including carbonated cereal beverages) manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in the carbonation thereof. This tax was repealed as of February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, imposed a tax at the rate of 15 per cent of the price for which sold on all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of 1 per cent of alcohol, sold by the manufacturer, producer, or importer, in bottles or closed containers. This tax was repealed as of January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(a) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax at the rate of 2 cents a gallon on all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of one per cent of alcohol by volume, sold by the manufacturer, producer, or importer. This tax was repealed as of June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 903 of the Revenue Act of 1926, effective February 26, 1926, imposed a tax at the rate of one-tenth of 1 cent a gallon on all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of one per centum of alcohol by volume, sold by the manufacturer, producer, or importer. This tax remained in effect until its repeal on June 28, 1928, by section 453 of the Revenue Act of 1928.

Section 615(a)(1) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax at the rate of 1½ cents a gallon on all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of 1 per centum of alcohol by volume, sold by the manufacturer, producer, or importer.

As originally enacted by Congress, section 615(a)(1) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - This tax was an excise tax on beverages known commonly as "near-beer" and was paid by the manufacturer, producer, or importer, on his sale or use of such products. The industry, while comparitively small, included a number of small bottling concerns throughout the country and tax was paid in all but 9 of the 64 collection districts. Production and receipts fell off rapidly after the repeal of the Eighteenth Amendment.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

A conflict in Federal taxes may have resulted by reason of the taxes on beer, etc., and the taxes on certain constituent parts of cereal beverages imposed under subsections of section 615 of the Revenue Act of 1932. However, the administrative provisions of the statute were designed to prevent double taxation when complied with.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturers' selling prices, no accurate comparison can be made. The rate of tax was low and hence the tax may not be regarded as having been excessive.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

The audit of the records of a taxpayer in this industry required the usual verification of production and sales records.

No statistics are available from which the actual cost of collecting this tax may be determined but since only a part of the time of the few employees assigned to this tax was consumed in the administration thereof, it is apparent that the cost of collection was extremely low.

This tax was repealed effective May 10, 1934, and no recommendation is made with respect to its reenactment.

TAX ON UNFERMENTED GRAPE JUICE

Section 615(a)(2) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 313(a) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax on all prepared syrups and extracts, including grape products falling within that category,(intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if so sold for not more than $1.30 per gallon, tax of 5 cents per gallon; if so sold for more than $1.30 and not more than $2.00 per gallon, tax of 8 cents per gallon; if so sold for more than $2.00 and not more than $3.00 per gallon, a tax of 10 cents per gallon; if so sold for more than $3.00 and not more than $4.00 per gallon, a tax of 15 cents per gallon; and if so sold for more than $4.00 per gallon, a tax of 20 cents per gallon.

Section 313(b) of the Revenue Act of 1917 imposed a tax at the rate of 1 cent a gallon on all unfermented grape juice sold by the manufacturer, producer, or importer in bottles or other closed containers.

These taxes were repealed as of February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, reenacted the tax on all unfermented grape juice sold by the manufacturer, producer, or importer in bottles or other closed containers, but changed the rate of tax to 10 per cent of the price for which the product was sold. This tax remained in effect until its repeal on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(b) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax of 2 cents per gallon on all unfermented fruit juices, in natural or slightly concentrated form, or such fruit juices to which sugar had been added (as distinguished from finished or fountain syrups), intended for consumption as beverages with the addition of water or water and sugar, and on all imitations of such fruit juices, sold by the manufacturer, producer, or importer. This tax was repealed on June 2,1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(2) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax at the rate of 5 cents a gallon on unfermented grape juice, in natural or concentrated form (whether or not sugar had been added), containing 35 per centum or less of sugar by weight, sold by the manufacturer, producer, or importer.

As originally enacted by Congress, section 615(a)(2) of the Revenue Act of 1932 was to be effective during the period June 21,1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - This tax was an excise tax and was paid by the manufacturer, producer, or importer on his sale of the taxable product. This industry, while comparatively small, embraced a number of small concerns scattered over the entire country, and tax was paid in all but 6 of the 64 collection districts.

No statistics are available in this Bureau from which the value of the products taxed may be determined. The price evidently varied to a great extent according to supply and demand, channels of distribution, quality of the product, and season of the year in which sold.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

Some conflict with respect to Federal taxes may have resulted by reason of the taxes imposed on distilled spirits and liquors and the taxes imposed under section 601(c)(3) and the other subsections of section 615 of the Revenue Act of 1932 on constituents of soft drinks.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturer's selling prices, no accurate comparison can be made.

The methods of tax avoidance or evasion were confined in this instance to the keeping of insufficient records for tax purposes.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

No appreciable difficulties were encountered in the administration of this tax, except in determining the sugar content by weight of some of the products, and in distinguishing between what is commercially known as grape juice and similar products known as "jelly stock" and "grape must". The audit of returns in this instance required the usual examination of production and sales records.

No statistics are available from which the actual cost of collecting this tax may be determined but the cost was in line with the average

cost of collecting the respective miscellaneous and excise taxes.

The tax was repealed effective May 10, 1934, and its reenactment is not recommended.

TAX ON UNFERMENTED FRUIT JUICES AND CARBONATED BEVERAGES.

Section 615(a)(3) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 313(b) of the Revenue Act of 1917, effective October 4, 1917, imposed a tax at the rate of 1 cent a gallon on all unfermented grape juice, containing less than one-half of 1 per cent of alcohol, sold by the manufacturer, producer, or importer thereof, in bottles or other closed containers, and on carbonated beverages, manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas in the carbonation thereof. This tax was repealed as of February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, imposed upon all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of one per centum of alcohol, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 15 per centum of the price for which so sold; and upon all unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters (carbonated or not carbonated), other carbonated waters or beverages, and other soft drinks, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 10 per centum of the price for which so sold. These taxes continued in effect until their repeal on January 1,1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(b) of the Revenue Act of 1921, effective January 1,1922, imposed a tax of 2 cents per gallon upon all unfermented fruit juices, in natural or slightly concentrated form or such fruit juices to which sugar had been added (as distinguished from finished or fountain sirups), intended for consumption as beverages with the addition of water or water and sugar, and upon all imitations of any such fruit juices, and upon all carbonated beverages, commonly known as soft drinks (except those described in subdivision (a) of this section, or cereal beverages), manufactured, compounded, or mixed by the use of concentrate, essence, or extract, instead of a finished or fountain sirup, sold by the manufacturer, producer, or importer. This tax was repealed on June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(3) of the Revenue Act of 1932, effective June 21,1932, imposed a tax of 2 cents per gallon on all unfermented fruit juices (except grape juice which was taxed separately under subdivision (a)(2) of this section), in natural or slightly concentrated form, or such fruit juices to which sugar had been added (as distinguished from finished or fountain syrups), intended for consumption as beverages

with the addition of water or water and sugar, and upon all imitations of any such fruit juices, and upon all carbonated beverages, commonly known as soft drinks (except those described in paragraph (1) of this section, or cereal beverages), manufactured, compounded, or mixed by the use of concentrate, essence, or extract, instead of a finished or fountain syrup, sold by the manufacturer, producer, or importer.

As originally enacted by Congress, section 615(a)(3) of the Revenue Act of 1932, was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - This tax was an excise tax and was paid by the manufacturer, producer, or importer, on his sale or use of the taxable products. Although comparatively small, the industry embraced a number of small concerns scattered over the entire country, and tax was paid in every one of the 64 collection districts.

No statistics are available in this Bureau from which the value of the products taxed may be determined.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

A conflict with respect to Federal taxes may have resulted due to the taxes on certain constituent parts of soft drinks imposed under other subsections of section 615 of the Revenue Act of 1932, but the administrative provisions of the statute were designed to prevent double taxation when complied with.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturer's selling prices, no accurate comparison can be made.

The methods of tax avoidance or evasion were confined in this instance to the keeping of insufficient records for tax purposes.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

The audit of the records of a taxpayer in this industry required an examination of production and sales records.

No statistics are available from which the actual cost of collecting this tax may be determined but the collection necessitated many investigations of numerous small producers so that the collection cost appears to have been relatively high.

The reenactment of this tax is not recommended by this Bureau.

TAX ON STILL DRINKS

Section 615(a)(4) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 313(b) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax at the rate of 1 cent a gallon on all unfermented grape juice sold by the manufacturer, producer, or importer, in bottles or other closed containers. This tax was repealed as of February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, reenacted the tax on all unfermented grape juice sold by the manufacturer, producer, or importer in bottles or other closed containers, but changed the rate of tax to 10 per cent of the price for which sold. This tax remained in effect until repealed on January 1, 1922, by section 1400 (a) of the Revenue Act of 1921.

Section 602(b) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax of 2 cents per gallon on all unfermented fruit juices, in natural or slightly concentrated form, or such fruit juices to which sugar had been added (as distinguished from finished or fountain syrups), intended for consumption as beverages with the addition of water or water and sugar, and upon all imitations of any such fruit juices, sold by the manufacturer, producer, or importer.

Section 602(c) of the Revenue Act of 1921 was the first to impose a tax on all still drinks, as such, containing less than one-half of 1 per centum of alcohol by volume, intended for consumption as beverages in the form in which sold (except natural or artificial mineral and table waters and imitations thereof, and pure apple cider), sold by the manufacturer, producer, or importer. This tax was likewise levied at the rate of 2 cents per gallon.

It is to be noted such section 602(c) specifically excluded natural or artificial mineral and table waters and imitations thereof, and pure apple cider. Natural or artificial mineral and table waters, and all imitations thereof, were taxed under section 602(d) of the Revenue Act of 1921.

The taxes imposed under sections 602(b) and 602(c) of the Revenue Act of 1921 were repealed on June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(4) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax of 2 cents per gallon on all still drinks (except grape juice), containing less than one-half of 1 per centum of alcohol by volume, intended for consumption as beverages in the form in which sold (except natural or artificial mineral and table waters and imitations

thereof, and pure apple cider), sold by the manufacturer, producer, or importer.

It is to be noted that section 615(a)(4) specifically excluded grape juice, natural and artificial mineral and table waters and imitations thereof, and pure apple cider. Grape juice and mineral and table waters were taxed under sections 615(a)(2) and (5), respectively, of the Revenue Act of 1932.

As originally enacted by Congress, section 615(a)(4) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - This tax was an excise tax payable by the manufacturer, producer, or importer thereof, on his sale or use of the taxable products. This industry, while comparatively small, embraced a large number of small concerns scattered throughout the country, and tax was paid in all but one of the 64 collection districts.

No statistics are available in this Bureau from which the value of the products taxed may be determined.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

Some conflict with respect to Federal taxes may have resulted by reason of the taxes imposed under other subsections of 615 of the Revenue Act of 1932, but the administrative provisions of the statute were designed to prevent double taxation when complied with.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturer's selling prices, no accurate comparison can be made. The tax was imposed at the rate of 2 cents per gallon, and 21 six-ounce glasses may be obtained from each gallon, the usual retail price being 5 cents per glass. Hence, it is believed that the tax had no appreciable effect on sales.

The methods of tax avoidance and evasion were confined in this instance to the keeping of insufficient records for tax purposes, which is to be expected of any tax imposed primarily on retail stores and soda fountains.

Administrative difficulties. - The tax was troublesome to determine and collect. The difficulties encountered in the administration of this tax were indifference on the part of taxpayers and the failure to keep proper records.

The audit of the records of a taxpayer in this industry required a simple audit of the sales or other distribution records, or in the absence of sales records, an estimate based on materials used.

While no statistics are available from which the actual cost of collecting this tax may be determined, it is believed that the collection cost was relatively high.

The reenactment of this tax is not recommended by this Bureau.

TAX ON NATURAL OR ARTIFICIAL MINERAL OR TABLE WATERS, AND ALL IMITATIONS THEREOF.

Section 615(a)(5) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 313(b) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax at the rate of one cent a gallon on artificial mineral waters (not carbonated) sold by manufacturer, producer, or importer thereof in bottles or other closed containers, and on other carbonated waters manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in the carbonation thereof.

Section 313(c) of the Revenue Act of 1917 first imposed a tax of one cent per gallon on all natural mineral waters or table waters sold by the producer, bottler, or importer thereof in bottles or other closed containers at over 10 cents per gallon.

These taxes were repealed on February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 628(a) of the Revenue Act of 1918, effective February 25, 1919, imposed on artificial mineral waters (carbonated or not carbonated) and other carbonated waters sold by the manufacturer, producer, or importer thereof in bottles or other closed containers, a tax at the rate of 10 per cent of the price for which sold.

Section 628(b) of the Revenue Act of 1918 reenacted the tax on natural or artificial mineral and table water sold for more than 10 cents a gallon by the manufacturer, producer, or importer thereof, but increased the rate of tax to 2 cents a gallon.

These taxes remained in effect until their repeal on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(d) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax of 2 cents per gallon on all natural or artificial mineral waters or table waters, whether carbonated or not, and all imitations thereof, sold by the producer, bottler, or importer thereof in bottles or other closed containers at more than 12½ cents a gallon. This tax was repealed as of June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(5) of the Revenue Act of 1932, effective June 21, 1932, reenacted the tax on natural or artificial mineral and table waters, and all imitations thereof, subject to the same conditions and at the same rate of tax as previously imposed by section 602(d) of the Revenue Act of 1921.

As originally enacted by Congress, section 615(a)(5) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - The tax was an excise tax and was paid by the manufacturer, producer, or importer on his sale of the taxable products. The industry, while comparatively small, embraced a number of small concerns scattered over the entire country and tax was paid in every one of the 64 collection districts.

No statistics are available in this Bureau from which the value of the products taxed may be determined since the tax was based on volume rather than sale price.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected. The tax did not conflict with any other Federal tax.

With respect to the measure of the tax in relation to the value of the products taxed, in the absence of definite information as to manufacturers' selling prices, no accurate comparison can be made. It is believed, however, from the retail prices of such products, the tax was not excessive, and imposed no appreciable burden on the industry.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of the tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

No appreciable difficulties were encountered in the administration of this tax.

The audit of the records of a taxpayer in this industry required a verification of the volume sold.

No statistics are available from which the actual cost of collecting this tax may be determined but the cost in this instance was relatively nominal.

The tax having been repealed, no recommendation is made with respect to its reenactment.

TAX ON FINISHED OR FOUNTAIN SYRUPS

Section 615(a)(6) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 313(a) of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax on all prepared syrups and extracts, (intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if so sold for not more than $1.30 per gallon, tax of 5 cents per gallon; if so sold for more than $1.30 and not more than $2.00 per gallon, tax of 8 cents per gallon; if so sold for more than $2.00 and not more than $3.00 per gallon, a tax of 10 cents per gallon; if so sold for more than $3.00 and not more than $4.00 per gallon, a tax of 15 cents per gallon; and if so sold for more than $4.00 per gallon, a tax of 20 cents per gallon. Such tax was repealed on February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 630 of the Revenue Act of 1918, effective May 1, 1919, imposed a tax of 1 cent for each 10 cents or fraction thereof of the amount paid to any person conducting a soda fountain, ice cream parlor, or other similar place of business, for drinks commonly known as soft drinks, compounded or mixed at such place of business, or for ice cream, ice cream sodas, sundaes, or other similar articles of food or drink, when any of the above were sold on or after such date for consumption in or in proximity to such place of business. Such tax was paid by the purchaser to the vendor at the time of the sale. This tax was repealed on January 1, 1922, by section 1400(a) of the Revenue Act of 1921.

Section 602(e) of the Revenue Act of 1921 imposed a tax of 9 cents a gallon on all finished or fountain syrups used in manufacturing, compounding, or mixing drinks commonly known as soft drinks, sold by the manufacturer, producer, or importer, except that in the case of any such syrups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers, the rate was 5 cents a gallon. Such tax was repealed on June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(6) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax of 6 cents per gallon on all finished or fountain syrups of the kinds used in manufacturing, compounding, or mixing drinks commonly known as soft drinks, sold by the manufacturer, producer, or importer, except that in the case of any such syrups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers, the rate was 5 cents per gallon. The tax of 6 cents a gallon also applied to any person conducting a soda fountain, ice cream parlor, or other similar place of business who manufactured and used any of the

specified syrups in the preparation of soft drinks; and the tax of 5 cents a gallon applied to any person manufacturing carbonated beverages who manufactured and used any such syrups in the manufacture of carbonated beverages sold in bottles or other closed containers. These taxes did not apply to finished or fountain syrups sold for use in the manufacture of a beverage subject to tax under paragraph (1) or (4) of section 615, nor to any article enumerated in section 601(c)(3) of the Revenue Act of 1932.

As originally enacted by Congress, section 615(a)(6) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed the tax, effective May 11, 1934.

Economic basis. - The tax was an excise tax and was paid by the manufacturer, producer, or importer on his sale of the articles enumerated. The industry, while comparatively small, embraced a number of small concerns scattered over the entire country, and tax was paid in every one of the 64 collection districts.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

No conflict with respect to the Federal taxes existed since the taxing statute (section 615(a)(6) of the Revenue Act of 1932), specifically excluded these products when used in the manufacture of beverages taxed under other subsections of section 615 or under section 601(c)(3) of the Revenue Act of 1932.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of the tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

No appreciable difficulties were encountered in the administration of this tax. No statistics are available from which the actual cost of collecting this tax may be determined.

The tax having been repealed, no recommendation is made with respect to the reenactment of the tax.

TAX ON CARBONIC ACID GAS

Section 615(a)(7) of the Revenue Act of 1932.

Tax repealed May 11, 1934.

Statutory background. - Section 315 of the Revenue Act of 1917, effective October 4, 1917, first imposed a tax on all carbonic acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks) sold by the manufacturer, producer, or importer thereof. The tax was levied at the rate of 5 cents per pound and was paid by the purchaser to the vendor of the taxable product. This tax was repealed as of February 25, 1919, by section 1400(a) of the Revenue Act of 1918.

Section 602(f) of the Revenue Act of 1921, effective January 1, 1922, imposed a tax of 4 cents per pound on all carbonic acid gas sold by the manufacturer, producer, or importer to a manufacturer of any carbonated beverages, or to any person conducting a soda fountain, ice cream parlor, or other similar place of business, and on all carbonic acid gas used by the manufacturer, producer, or importer thereof in the preparation of soft drinks. This tax was repealed as of June 2, 1924, by section 1100(a) of the Revenue Act of 1924.

Section 615(a)(7) of the Revenue Act of 1932, effective June 21, 1932, imposed a tax of 4 cents per pound on all carbonic acid gas sold by the manufacturer, producer, or importer, or by a dealer in such gas, to a manufacturer of any carbonated beverages, or to any person conducting a soda fountain, ice cream parlor, or other similar place of business, and on all carbonic acid gas used by the manufacturer, producer, or importer thereof in the preparation of soft drinks.

As originally enacted by Congress, section 615(a)(7) of the Revenue Act of 1932 was to be effective during the period June 21, 1932 to July 1, 1934. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. However, section 601 of the Revenue Act of 1934 repealed this tax, effective May 11, 1934.

Economic basis. - This tax was an excise tax and was paid by the manufacturer, producer, or importer on his sale of the taxable product. This industry is comparatively small.

No statistics are available in this Bureau from which the value of the products taxed may be determined since the tax was based on weight rather than sale price.

Inequities. - With respect to any conflict in the subject taxed, no doubt these products were indirectly affected by some of the excise taxes imposed by the several States, but the State taxes in general differed from the Federal tax in the basis for the tax, the method of computation, and the class of taxpayers affected.

Some conflict with respect to Federal taxes may have resulted by reason of the taxes imposed on distilled spirits and liquors.

The methods of tax avoidance or evasion were confined in this instance to the occasional readiness of small operators to state the gas was purchased for use other than at soda fountains.

Administrative difficulties. - There was no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations were no more than those usually required by these taxpayers for their own purposes.

The audit of returns of this tax required a detailed examination of production and sales or other disposition records, and of the evidence relied upon in support of exemption and refund or credit claims.

No statistics are available from which the actual cost of collecting this tax may be determined but since only a part of the time of the few employees assigned to this tax was consumed in the administration thereof, it is apparent that the cost of collection was extremely low.

No recommendation is made with respect to the reenactment of this tax.

TAX ON ELECTRICAL ENERGY

Section 616 of the Revenue Act of 1932, as amended

Yield for the fiscal year - 1936 - $ 33,875,179.25
Yield for the fiscal year - 1937 - 34,500,000.00 Estimated
Number of taxpayers ---------- 2,400
Rate of tax - 3 per cent of the charge therefor.

Statutory background. - The tax imposed by section 616 of the Revenue Act of 1932, as amended, attaches to the sale of electrical energy for domestic or commercial consumption at the rate of 3 per cent of the amount paid for such energy. As originally enacted by Congress, the tax was to be effective during the period from June 21, 1932 to June 30, 1934, inclusive, and the tax was to be paid by the person paying for such energy and to be collected by the vendor.

Section 6 of the Act approved June 16, 1933, (Public No. 73 - 73d Congress) amended section 616 of the Revenue Act of 1932, effective as of September 1, 1933, to impose the burden of the tax upon the vendor of electrical energy on his sale for domestic or commercial consumption, rather than upon the consumer or vendee. This section exempted from the tax the resale of electric energy by the owner or lessee of a building to tenants therein, and provided that a sale to such an owner or lessee for resale is taxable when sold by the vendor. This amendment also exempted all sales of energy to the United States, any State or Territory, or political subdivision thereof, or the District of Columbia, and all sales of energy by publicly-owned electric and power plants. While the basis of the levy of this tax was revised to change the burden from the consumer to the vendor of the energy, the rate remained the same.

Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 334) further extended such date to July 1, 1937. Unless again further extended, this tax will be automatically repealed as of July 1, 1937.

Economic basis. The tax is an excise tax and at the present time is payable by the vendor on his sale of the energy for domestic or commercial consumption. This industry ranks among the largest commercial enterprises in the country, and tax is being paid in every one of the 64 collection districts. A check of the returns filed for one month shows the number of taxpayers filing electrical energy tax returns is approximately 2,400. In view of the nature of the subject of this tax, the value thereof can be determined only from the charges made, and such charges are not uniform but vary widely.

Inequities. - With respect to any conflict in the excise tax on the sale of electrical energy, it may be stated that the State of

South Carolina imposes an excise, license, or privilege tax on the production of electricity, or on the sale, if not taxed at production and the energy is no longer in interstate commerce, while the State of Vermont imposes an excise tax on the manufacture of electricity within the State. The rate in both instances is ½ mill per kilowatt-hour.

Under the present statute, municipal and other publicly-owned electric and power plants operate in competition with private enterprises in the same localities without incurring tax liability. Moreover, the law discriminates against electrical energy sold for commercial consumption since the sale of such energy for industrial purposes is exempt from the tax and also discriminates against the sale of such energy for domestic purposes since the product may be sold without tax liability to various classes of institutions. Finally, persons who generate electrical energy for their own consumption, whether for domestic or for commercial purposes likewise enjoy a tax exemption or a benefit in comparison with the purchasers of electrical energy for such uses.

Due to the nature of the subject taxed, it is evident there has been no retarding of trade, curtailment of consumption, or use of substitutes because of the imposition of this tax. It is believed that the tax can not be classed as excessive.

The chief method used for tax avoidance or evasion has been the claiming by consumers of an exempt status as an industrial concern whereas, in fact, the business of the consumer was strictly or primarily commercial in character. Due to the large number of individual consumers upon whom power companies must depend to furnish correct information as to their business activities, a complete check as to the avoidance of tax is a tremendous task. All steps possible along this line are being taken, and the power companies make frequent surveys to determine the facts.

Administrative difficulties. - There is no involved Bureau procedure connected with the administration of this tax. The regulations must of necessity require the keeping of proper records from which the taxpayer's liability may be determined, and the validity of claims for exemption be established. It would seem that in this instance the tax has necessitated the maintenance of additional records by taxpayers. However, the records required by the Bureau have been simplified as much as possible to conform to the records usually kept by the taxpayers and at the same time protect the Government's interests from tax avoidance or evasion.

The audit of the returns of this tax requires a detailed examination of the production and sales records and particularly of the evidence furnished as to the basis for claims for exemption from the tax.

While the nature of the subject taxed contains no inherent difficulties, some difficulty is encountered in distinguishing between commercial and industrial consumption of electrical energy.

No statistics are available from which the actual cost of collecting this tax may be determined. The tax produces a very substantial revenue so that relatively the cost may be considered as being quite low.

The statute as now worded and the forms used in connection therewith are clear and simple. However, in view of the inequities pointed out above, it is suggested that the law be changed to specifically tax all electrical energy sold or used by the vendor, and to eliminate all exemptions except sales to the United States, any State, or Territory, or political subdivision thereof.

From the standpoint of revenue, this Bureau recommends that the tax be continued.

TAX ON SALE OR USE OF GASOLINE BY THE PRODUCER OR IMPORTER.

Section 617 of the Revenue Act of 1932, as amended.

Yield for fiscal year - 1936 - $ 177,119,040.07
Yield for fiscal year - 1936 - 178,200,000.00 Estimated
Number of taxpayers ---------- 1,100
Rate of tax - 1 cent per gallon.

Statutory background. - The Federal tax on the sale or use of gasoline by a producer or the importer thereof was first imposed by section 617 of the Revenue Act of 1932, at the rate of 1 cent per gallon. As originally enacted by Congress, the tax was to be effective during the period from June 21, 1932 to July 1, 1933. Section 1 of the Act approved June 16, 1933 (Public No. 73 - 73d Congress), and section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935. Public Resolution No. 36 - 74th Congress (H.R. 324) further extended such date to July 1, 1937. Unless again extended, the tax will be automatically repealed as of July 1, 1937.

No revision has been made in the basis of the tax, but section 211 of the National Industrial Recovery Act amended section 617(a) to increase the rate of tax from 1 cent per gallon to 1½ cents. Section 217(b) of the National Industrial Recovery Act provided that effective as of the first day of the calendar year following the declaration of the President of the repeal of Prohibition the rate be reduced from 1½ cents per gallon to 1 cent.

Due to the above amendments, the rate of tax during the period June 21, 1932 to June 16, 1933, inclusive, was 1 cent per gallon; during the period from June 17, 1933 to December 31, 1933, inclusive, the rate of tax was 1½ cents per gallon; and since January 1, 1934, has been 1 cent per gallon.

Section 617 of the Revenue Act of 1932 was amended by section 603 of the Revenue Act of 1934 to require taxpayers liable for this tax, under a specific penalty, to give bond and register with the collector of internal revenue for the district in which they file their returns; also to amend the definition of the term "gasoline" as used in the statute.

The amendment also provided that under regulations prescribed by the Commissioner with the approval of the Secretary, all records required to be kept with respect to this tax, and all returns, reports and statements relative thereto, which may be filed with the Commissioner or a collector shall be open to inspection by such officers of any State or Territory or political subdivision thereof or the District of Columbia, who are charged with the enforcement or collection of any tax on gasoline.

Economic basis. - The tax on gasoline is an excise tax payable by a producer or the importer on his sale or use thereof. The gasoline industry ranks among the largest industries of the country, and tax is being reported and paid in practically every one of the 64 collection districts. A check of the returns filed for one month shows that the number of taxpayers filing gasoline tax returns is approximately 1,100. Examination of statistical papers, trade journals, etc., discloses that the sale price of gasoline depends almost exclusively on the locality in which it is sold. The refinery sales prices range from 5 cents to 9 cents per gallon when sold by the producer.

Inequities. - With respect to any conflict in the excise tax on the sale or use of gasoline by the producer or importer thereof, every State in the Union, together with a number of counties and municipalities, including the District of Columbia, imposes some form of excise tax on most of the products included in the term "gasoline" as defined in section 617, as amended. No information is available to show the extent to which the State and local taxes conflict with the Federal tax.

Under the Revenue Act of 1932, and subsequent Revenue Acts, in addition to the tax imposed by section 617, the following taxes are imposed in which the quantity of gasoline is the measure of such taxes:

(a) The tax on the importation of gasoline and other motor fuels under section 601(c)(4) of the Revenue Act of 1932, at the rate of 2½ cents per gallon. This tax is administered by the Bureau of Customs, and is paid by the importer.

(b) The tax imposed on the transportation of gasoline by pipe line under section 731 of the Revenue Act of 1932, at the rate of 4 per cent of the amount paid for such transportation, or of the fair charge therefor if transported by the owner of the product. This tax is paid by the transporter.

(c) The tax imposed on gasoline produced or recovered in the United States from natural gas by section 605 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the person producing or recovering such gasoline and is merely a regulatory tax.

In addition, crude petroleum, of which gasoline is a derivative, is subject to the following Federal taxes:

(d) The tax on importation of crude petroleum by section 601(c)(4) of the Revenue act of 1932 at the

rate of ½ cent per gallon. This tax is administered by the Bureau of Customs, and is paid by the importer.

(e) The tax on transportation of crude petroleum by pipe line. (See (b) above).

(f) The tax on the sale of crude petroleum imposed by section 604 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the producer and is merely a regulatory tax.

(g) The tax on the refining or processing of crude petroleum in the United States, imposed by section 605 of the Revenue Act of 1934. (See (c) above).

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that there has been no curtailment of consumption of the products enumerated in section 617, due to the imposition of this tax. No evidence is available in this Bureau to show that the use of substitutes has been resorted to since the effective date of this tax.

While the measure of the tax in relation to the value of the product, when sold by the producer, may appear large, yet the quantity basis used in the statute is the same which has been adopted by all taxing authorities which impose taxes on this commodity. In view of the almost daily fluctuation in gasoline prices, due to unfair competition by so-called bootleggers disposing of contraband products, price wars, etc., the quantity basis for tax measurement on such commodity is preferable for the reasons that it is equitable to all branches of the industry and simplifies the administration of the tax.

Various tax evasion methods have been resorted to by certain branches of the industry, particularly small operators and dealers, by purchasing nontaxable kerosenes and low-grade naphthas, and blending them with natural or casinghead gasoline to produce a satisfactory motor fuel. In other cases, gasoline has been shipped or sold as kerosene or fuel oil. These evasions relate particularly to State taxes rather than the Federal tax, since the State, including local taxes are much higher than the Federal tax and range from 2 cents to 9 cents per gallon. The major companies of the petroleum industry are thoroughly organized into associations known as the American Petroleum Institute, National Petroleum Association, and Western Petroleum Association, and such organizations are policing the industry for tax evasion to stamp

out price cutting and unfair competition. Any irregularities relating to tax avoidance or evasion are promptly reported to the Federal or State taxing authorities. Federal gasoline tax evasion has been found to be a minor administrative problem, due to the cooperation of the industry itself and of the State and local taxing authorities charged with the administration of similar taxes.

Administrative difficulties. - No involved Bureau procedure is required with respect to the administration of this tax.

The regulations clearly define the products taxed, such definitions having been determined with the cooperation of experts from the National Bureau of Standards in conjunction with experts representing the industry as a whole.

The statute, as amended, requires the keeping of all necessary records relating to the taxpayer's liability for this tax, and to claims for refund, credit, or exemption. This necessarily requires some additional bookkeeping changes and records which may have been unnecessary for the taxpayer's purposes prior to the imposition of the tax. However, the records required by the Bureau regulations have been simplified as much as possible to conform to the ordinary records usually kept by the taxpayers in this industry, and at the same time protect the Government's interest from tax avoidance and evasion.

The audit of the returns of this tax requires a detailed examination of the opening and closing inventories, the production records, plant uses of the product, sales and distribution records, and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined but from the yield of revenue obtained and the small number of persons assigned to the administration of this tax, it is apparent that the cost of collection is extremely low.

The statute as now worded and the forms used in connection therewith are clear and simple and no revision is deemed necessary.

In view of the revenue derived, the assurance of collection, the minimum litigation encountered to date, and the relatively minor attempts at tax avoidance or evasion, it is the opinion of this Bureau that the tax on gasoline should be continued.

TAX ON CHARGE FOR THE TRANSMISSION OF EACH TELEGRAPH, TELEPHONE, CABLE, OR RADIO DISPATCH, MESSAGE OR CONVERSATION.

Section 701 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 21,098,347.65
Yield for the fiscal year - 1937 - $ 21,000,000.00 Estimated
Number of taxpayers ---------- 460
Rates of tax - (a) Telephone conversations charges of 50 cents to 99 cents - 10 cents; $1.00 to 1.99 - 15 cents; $2.00 or more - 20 cents.
(b) Telegraph - 5 per cent of charge.
(c) Cable or radio - 10 cents each message.
(d) Leased wire - 5 per cent of the charge.

Statutory background. - Section 500(a) of the Revenue Act of 1917, effective as of November 1, 1917, first imposed a tax on the use of telegraph, telephone, and radio facilities. The tax was levied at the rate of 5 cents for each message, dispatch, or conversation originating in the United States for which the charge was 15 cents or more. Section 502 of such Act exempted the use of these facilities by the United States, any State or Territory, or the District of Columbia.

The tax was continued and enlarged in section 500(f) of the Revenue Act of 1918, effective April 1, 1919, to include cable as well as telegraph, telephone and radio facilities and with a change in the rate of tax to 5 cents for each message, dispatch, or conversation for which the charge was more than 14 cents and not more than 50 cents and 10 cents when such charge exceeded 50 cents. In addition, subdivision (g) of this section imposed a tax of 10 per cent upon the amount paid any telegraph or telephone company for any leased wire or talking circuit special service, with an exemption for such services when utilized in the collection and dissemination of news through the public press or in the conduct by a common carrier or telegraph or telephone company of its business, as such. The specific exemption for the governmental use of these facilities was likewise continued in subdivision (h) of this section.

The taxes and exemptions as provided for in section 500 of the Revenue Act of 1918 were reenacted without change in section 500(a)(b) and (c) of the Revenue Act of 1921, effective January 1, 1922, and remained in effect until repealed on July 2, 1924, by section 1100(a) of the Revenue Act of 1924.

The taxes were revived in section 701 of the Revenue Act of 1932, effective as of June 21, 1932. Under this section a tax of 5 per cent

is imposed with respect to the amount paid any telegraph or telephone for a leased wire or talking circuit special service while the taxes with respect to messages, etc., are imposed at the following rates:

"(A) Telephone conversations for which the charge is 50 cents or more and less than $1, 10 cents; for which the charge is $1 or more and less than $2, 15 cents; for which the charge is $2 or more, 20 cents;

"(B) telegraph dispatches and messages, 5 per centum of the amount charged therefor; and

"(C) cable and radio dispatches and messages, 10 cents".

This section also provides for specific exemptions from these taxes substantially as allowed under the prior Acts.

As orginally enacted by Congress, the taxes levied under section 701 of the Revenue Act of 1932 were to be effective during the period from June 21, 1932 to June 30, 1934, inclusive. Section 212 of the National Industrial Recovery Act extended the expiration date to July 1, 1935, and Public Resolution No. 36 - 74th Congress (H.R. 324) further extended such date to July 1, 1937. Unless the expiration date is further extended, the taxes will be automatically repealed as of July 1, 1937.

Economic basis. - These taxes are excise taxes payable since their inception in the Revenue Act of 1917 by the persons paying for the specified services. The taxes thus affect the public generally but are collected by the persons furnishing the services who in turn make monthly remittances to the collectors of internal revenue. Collections of these taxes are reported in all but two of the 64 collection districts and a check of the returns for one month indicates that the number of persons filing returns of these taxes is approximately 460.

Inequities. - In this instance, there appear to be no conflicting taxes, whether State or Federal. Due to the nature of the subjects taxed, it is evident there has been no retarding of trade or curtailment of the use of these facilities because of the imposition of these taxes. The tax rates are not considered excessive. No tax evasions or avoidances have been uncovered in the administration of these taxes.

Administrative difficulties.- The Bureau has experienced little difficulty in the administration of these taxes. The records required by the statute and regulations conform to those usually maintained for business purposes by the persons concerned.

No statistics are available from which the actual cost of collecting this tax may be determined but from the yield of revenue obtained and the simplicity of the administration, it is apparent the cost of collection is extremely low.

In view of the substantial revenue derived from this source and the little difficulty experienced in the collection thereof, it is recommended that these taxes be reenacted.

TAX ON THE TRANSPORTATION OF CRUDE PETROLEUM AND LIQUID PRODUCTS THEREOF

Section 731 of the Revenue Act of 1932.

Yield for the fiscal year - 1936 - $ 9,793,995.42
Yield for the fiscal year - 1937 - 10,000,000.00 Estimated
Number of taxpayers ---------- 400
Rate of tax - (a) 4 per cent of the amount paid for such transportation, or
(b) where no charge is made because of ownership of the commodity transported, or
(c) where the commodity is transported at less than the fair charge therefor, 4 per cent of the fair charge, for the services rendered, as determined by the Commissioner.

Statutory background. - The tax on the transportation of oil by pipe line was first imposed by section 500(d) of the Revenue Act of 1917, effective November 1, 1917, at the rate of 5 per cent of the amount paid for such transportation. The rate of tax was increased to 8 per cent by section 500(e) of the Revenue Act of 1918, effective April 1, 1919. The tax was paid by the person for whom such transportation services were rendered. This tax was repealed by section 1400(a) of the Revenue Act of 1921, effective January 1, 1922.

The present tax was enacted under section 731 of the Revenue Act of 1932, effective June 21, 1932, and applies to all transportation by pipe line of crude petroleum and liquid products thereof at the rate of 4 per cent (a) of the amount paid for such transportation, or (b) of the fair charge for such transportation where no charge for transportation is made because of ownership of the commodity transported or for any other reason, or (c) of the fair charge if (other than in the cases of an arm's-length transaction) the payment for transportation is less than the fair charge therefor. This tax is paid by the person furnishing the transportation services.

Section 731(b) of the Revenue Act of 1932 provides that for the purpose of the tax the fair charge shall be determined (1) from actual bona fide rates or tariffs, or (2) where no rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or (3) where no such rates or tariffs exist, then on the basis of a reasonable charge for the transportation involved, as determined by the Commissioner.

The tax imposed by section 731 was intended to be in effect until July 1, 1934. Section 212 of the National Industrial Recovery Act

extended the effective period to July 1, 1935, and Public Resolution No. 36 - 74th Congress further extended such period to July 1, 1937. Unless the effective period is again extended, the tax will be automatically repealed as of July 1, 1937.

Economic basis. - The tax on the transportation of crude petroleum and liquid products thereof, is an excise tax. The pipe line transportation business is a very material division of the oil and gasoline industry. The greater part of crude petroleum and liquid products produced or imported into the United States is transported by pipe lines, although large quantities are also transported in tank cars by rail, tank vessels, and tank trucks. A check of returns filed in one month shows that the number of taxpayers filing pipe line transportation tax returns is approximately 400.

Inequities. - Crude petroleum and liquid products thereof are subjected to a variety of taxes by many of the States and local subdivisions. It is not known, however, to what extent and in what manner the State taxes conflict with the instant tax. From the standpoint of Federal taxation, these products are also affected by the following taxes:

(a) The tax imposed on the sale or use of lubricating oil by section 601(c)(1) of the Revenue Act of 1932 at the rate of 4 cents a gallon. This tax is paid by the manufacturer or producer.

(b) The taxes imposed by section 601(c)(4) of the Revenue Act of 1932 on the importation of crude petroleum, fuel oil and gas oil derived from petroleum, and all liquid derivatives of crude petroleum (except lubricating oil and gasoline or other motor fuel) at the rate of ½ cent per gallon; gasoline or other motor fuels at the rate of 2½ cents per gallon; lubricating oils at 4 cents per gallon. These taxes are administered by the Bureau of Customs and are paid by the importer.

(c) The tax imposed on the sale or use of gasoline by section 617 of the Revenue Act of 1932 at the rate of 1 cent per gallon. This tax is paid by the producer or importer.

(d) The regulatory tax on the sale of crude petroleum imposed by section 604 of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is to be paid by the producer.

(e) The regulatory tax imposed on the refining or processing of crude petroleum in the United States by section 605(1) of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the refiner or processor.

(f) The regulatory tax imposed on the production or recovery of gasoline in the United States from natural gas by section 605(a)(2) of the Revenue Act of 1934, as amended, at the rate of 1/25 of 1 cent per barrel of 42 gallons. This tax is paid by the person producing or recovering such gasoline.

It is believed that the statistical and economic surveys of crude petroleum and petroleum products made each month by the Petroleum Economics Division of the United States Bureau of Mines will show that the instant tax has not resulted in any retarding of the pipe line transportation business or curtailment of the consumption of the taxable products.

The authority given the Commissioner to determine, in the cases covered by section 731(b)(2) and (3) of the Revenue Act of 1932, the fair charge for the transportation of these products by pipe line tends to equalize competitive conditions in the oil industry by placing oil companies operating their own pipe line transportation facilities on the same footing with those required to use the services of commercial pipe line carriers.

To date, practically no evasion or avoidance of this tax has been uncovered by the Bureau. The major companies of the petroleum industry are organized into associations known as the American Petroleum Institute, National Petroleum Association, and the Western Petroleum Association, and such organizations are policing the industry for tax evasion, in order to stamp out price cutting and unfair competition. Any irregularities relating to taxes in general are promptly reported to the Federal and State taxing authorities.

Administrative difficulties. - No involved Bureau procedure is necessary in the administration of this tax, as most of the difficulties were overcome when the tax imposed by the Revenue Act of 1918 was in effect. The records required by the regulations of the Bureau conform, insofar as possible, to the usual records kept by these taxpayers for their own purposes.

The audit of the returns of this tax requires a detailed examination of the volume of commodities accepted for transportation, run records of amounts taken into the pipe lines and deliveries therefrom, tariff deductions, allowances for evaporation, basic sediment, water,

etc., tariffs and rates for each movement, and necessary information from which the Commissioner may determine the fair charge for transportation where applicable.

No statistics are available from which the actual cost of collecting this tax may be determined. The tax is regarded as having relatively a low collection cost.

In view of the appreciable revenue derived therefrom, the assurance of its collection, the minimum litigation, and the minor attempts at tax avoidance or evasion experienced to date, the Bureau recommends that the tax on the transportation of oil by pipe line be continued.

TAX ON CHARGES MADE FOR THE USE OF SAFE DEPOSIT BOXES.

Section 741 of the Revenue Act of 1932.

Yield for fiscal year - 1936 - $1,997,409.57
Yield for fiscal year - 1937 - 2,000,000.00 Estimated.
Number of taxpayers - 10,600
Rate of tax - 10 per cent of rental charge.

Statutory background. - Section 741 of the Revenue Act of 1932 imposes a tax of 10 per cent upon the charge made for the use of safe deposit boxes, that is, any vault, safe, box, or other receptacle of not more than 40 cubic feet capacity used for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable property.

The tax became effective June 21, 1932, and will continue until repealed by an Act of Congress. No automatic repeal date is provided for this tax.

There have been no revisions in the base of the levy or the rate of tax since its enactment.

Economic basis. - The tax is an excise tax and is payable by the persons paying the rental charges, and is collected from such persons by the lessor of the safe deposit boxes, who in turn reports and pays it over to the collector of internal revenue for the district in which such lessor is located. A check of the returns filed in one month shows that the number of lessors filing safe deposit box tax returns is approximately 10,600.

Inequities. - There is apparently no conflict in the subjects taxed so far as Federal tax is concerned. No information is available to show whether the imposition of this tax retarded the trade or curtailed the use of safe deposit boxes.

There is no evidence of any tax avoidance or evasion of this tax.

Administrative difficulties. - The administration of the tax does not require any involved procedure. The provisions of the regulations do not impose any undue burden upon the taxpayers or lessors. In this instance, the returns require relatively a simple audit since the tax is measured by the amounts charged for use of taxable safe deposit boxes. No statistics are available from which the actual cost of collecting this tax may be determined, but from the yield of revenue obtained, and the fact that only a small part of the time of very few employees is consumed in the administration of this tax, it is apparent that the cost of collection is extremely low.

Since the tax yields a substantial revenue and is not costly to administer, it is recommended that the tax be continued in effect.

TAX ON CHECKS, DRAFTS, AND ORDERS FOR THE PAYMENT OF MONEY.

Section 751 of the Revenue Act of 1932.

Tax repealed January 1, 1935.

Rate of tax - 2 cents per check, etc.

Statutory background. - The tax imposed by section 751 of the Revenue Act of 1932, applied to checks, drafts, or orders for the payment of money drawn upon any bank, banker, or trust company. As originally enacted and later amended by Congress, the tax was to be effective during the period June 21, 1932 to June 30, 1935, inclusive, but was repealed by section 606 of the Revenue Act of 1934, effective as of January 1, 1935.

There were no revisions in the base of the levy or the rate of tax during the effective period.

Economic basis. - The tax was an excise tax payable by the drawer of the instrument. It was imposed upon every person drawing a taxable instrument, but the statute provided it was to be collected by the bank upon which drawn, by charging the amount of the tax against any account of the drawer. The bank reported and paid all taxes collected by it each month to the collector of internal revenue for the district in which located.

Inequities. - There was apparently no conflict in the subjects taxed. Information submitted by banks throughout various sections of the country indicated there was a slight curtailment in the use of checks, etc. The rate of tax was 2 cents per check, etc., regardless of the amount for which the instrument was drawn.

In some instances, the tax was evaded by a substitution of instruments drawn upon the maker himself but payable through or at certain banks under separate contract between maker and bank, the terms of which did not obligate the bank to pay the instrument so that the bank was without authority to charge the amount of the instrument against the account of the maker. Legislative history determine that such class of instruments should not come within the scope of the tax.

Administrative difficulties. - No involved Bureau procedure was required with respect to the administration of this tax. The provisions of the regulations did not impose any undue burden or hardship on taxpayers or banks. The audits were very simple since the tax was based on the number of checks paid by the banks.

If it is contemplated to recommend the reenactment of this tax, the language of the law, to prevent tax avoidance, should be broad enough to include any instrument drawn on the maker and payable at or through any bank, banker, or trust company, regardless of the terms of any contract or agreement between the maker of the instrument and the bank, etc.

The tax is simple of administration and is a very productive measure from a revenue standpoint, but Congress having seen fit to repeal it, the Bureau is inclined to make no recommendation for its reenactment at this time, unless it is desired to raise additional revenue. For the fiscal year ended June 30, 1934, the tax yielded $41,384,198.66 and it is believed that if reenacted the tax under present conditions would yield more than $50,000,000.00.

TAX ON TOBACCO PRODUCTS, ETC.

Title IV, Revenue Act of 1926, as amended.

Yield for fiscal year 1935 ---------- $501,165,728.39
Estimated yield for fiscal year 1937 ----- 530,000,000.00
Approximate number of taxpayers ---------- 7,100
Rates of taxes (various).

Statutory background. - The Federal taxes on manufactured tobacco products are among the oldest taxes in force today. They were imposed originally under the Act of July 1, 1862, and while the tax rates and classifications of the taxable products have been changed from time to time in later Acts, the tobacco taxes have been in effect continuously since 1862. Cigarette papers and cigarette tubes were added to these taxable products by the Revenue Act of 1917 and have been similarly subjected to taxation in the subsequent Revenue Acts. The taxes now in force are imposed under Title IV of the Revenue Act of 1926, and are levied at the following rates:

Classification	Rate of tax
Manufactured tobacco (smoking and chewing) and snuff	$ .18 per pound.
Cigars weighing not more than 3 pounds per 1,000	.75 per 1,000
Cigars weighing more than 3 pounds per 1,000 if manufactured or imported:	
To retail at not more than 5 cents each	2.00 " "
To retail at more than 5 cents each and not more than 8 cents each	3.00 " "
To retail at more than 8 cents each and not more than 15 cents each	5.00 " "
To retail at more than 15 cents each and not more than 20 cents each	10.50 " "
To retail at more than 20 cents each	13.50 " "
Cigarettes weighing not more than 3 pounds per 1,000	2.00 " "
Cigarettes weighing more than 3 pounds per 1,000	7.20 " "
Cigarettes weighing more than 3 pounds per 1,000 and measuring more than 6½ inches in length; each 2-3/4 inches (or fraction thereof) of the length of each to be counted as one cigarette*	3.00 " "
Cigarette papers:	
On each package, book, or set containing:	
More than 25 but not more than 50 papers	½ cent.
More than 50 but not more than 100 papers	1 cent.
More than 100 papers, for each 50 papers or fractional part thereof	½ cent.
Cigarette tubes:	
Fifty tubes or fractional part thereof	1 cent.

* Classification as added by section 610 of the Revenue Act of 1934.

Economic basis. - The taxes on tobacco products, etc., are excise taxes payable by the manufacturers or importers of such products. The tobacco industry constitutes one of the major industries of the country. According to the Bureau records, there are at present 4,660 manufacturers of cigars and cigarettes, 676 manufacturers of tobacco and snuff, 18 manufacturers of cigarette papers and tubes, and 1,814 registered dealers in leaf tobacco. For the calendar year 1935, the records of the Bureau show that 1,352,474,053 pounds of leaf tobacco were received from farmers and growers, 775,932,061 pounds of tobacco were used in the manufacture of taxable products, 342,727,851 pounds of manufactured tobacco and snuff were produced, 144,881,256,787 number of cigars and cigarettes were produced, 343,537,592 pounds of tobacco and snuff and 144,605,632,180 number of cigars and cigarettes were removed for sale and consumption.

While the taxes are excises, their enforcement necessarily requires a certain degree of regulation of the industry. All manufacturers and dealers in leaf tobacco are required to operate under bond, make monthly reports of their transactions in tobacco materials and taxable products, and of the amounts of Internal Revenue stamps purchased and used. In addition, manufacturers and dealers are required to render annually on January 1 inventories of tobacco materials, manufactured products, and stamps on hand. By far the greater part of the revenue derived from these taxes is attributable to the tax on cigarettes. Such tax might be considered high since it amounts to 6 cents per package of 20 cigrettes. However, the tax has not retarded the manufacture of cigarettes or lessened their consumption as evidenced by the fact that the collections have been increasing substantially during the past several years. Indeed, for the fiscal year 1936, the collections were the largest in history.

Inequities. - The experience of the Bureau in the administration of these taxes has not disclosed any conflict with other taxes, whether Federal or State. No conflict arises with respect to local taxes since such taxes are ordinarily imposed on the retail sales, whereas the Federal taxes are imposed upon the withdrawl of tobacco products from the factory for consumption.

Administration. - By far the greater part, at least 90 per cent, of the tobacco taxes are collected through use of stamps affixed by taxpayers to the taxable products. Hence, the administration with respect to such collections is not involved. However, all of the taxes are not collected by stamps and monthly reports requiring assessments of taxes are filed with respect to the tax on cigarette papers and tubes. In addition, assessments are also required in cases of unpaid stamp tax liability disclosed as a result of an investigation. These taxes have been in effect for such a long period of time and the industry is so well organized and regulated that the Bureau has no major difficulties with respect to tax avoidances.

The work of the Bureau includes audit and examination of monthly information returns filed by manufacturers and dealers, the verification

of their transactions in tobacco materials (which is made through use of mechanical equipment), determination of tax with such assessment as may be required in the case, making requests for investigations to require tax payments, reviewing reports of suspected violations, consideration and action upon offers in compromise, approval of packages used in putting up for sale or consumption manufactured tobacco products, rulings with respect to application of taxes and construction of the regulations, adjustments by claims, issuing of permits for tax free withdrawals of tobacco products for the use of the United States, compilation of statistics with respect to the tobacco industry, etc.

The actual cost of collecting these taxes is not known. However, considering the substantial revenue derived therefrom and the little difficulty incurred in their collection, the cost of collecting these taxes is insignificant.

The taxes on tobacco products furnish such an essential part of the Government's revenue that their continuation may be accepted as a matter of course. Hence, no recommendation is made with respect thereto. However, the Bureau is considering certain proposed amendments to the administrative provisions of the law, which relate to matters such as the classification of a manufacturer of tobacco, a tobacco growers' cooperative association, and to the statutory requirements concerning the packaging and branding of manufactured tobacco products, etc.

TAX ON THE AMOUNT PAID FOR ADMISSION TO ANY PLACE

Section 500(a)(1) of the Revenue Act of 1926,
as amended.

Yield for the fiscal year - 1936 - $ 15,580,547.76
Yield for the fiscal year - 1937 - 15,600,000.00 Estimated
Number of taxpayers ---------- 5,400
Rate of tax - 1 cent for each 10 cents, if 41 cents or more.

Statutory background. - The Federal tax on amounts paid for admission to any place, including admission by season ticket or subscription, was first imposed by section 700(a) of the Revenue Act of 1917, effective November 1, 1917. The tax was levied at the rate of 1 cent for each 10 cents or fraction thereof of the amount so paid. The tax also applied to the admission of children under 12 years of age where an admission charge for such children was made, but in such case the tax was fixed at 1 cent. In section 700(b), this Act provided for an equivalent tax in the case of persons (except bona fide employees, municipal officers on official business, and children under twelve years of age) admitted free to any place at a time when and under circumstances under which an admission charge was made for other persons of the same class, which tax was paid by the persons so admitted free.

Section 700 of the Revenue Act of 1917 exempted any admissions, all of the proceeds of which inured exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, or admissions to agricultural fairs none of the profits of which were distributed to stockholders or members of the association conducting the same.

The tax was reenacted in sections 800(a)(1) and (2) of the Revenue Act of 1918, effective April 1, 1919, with the following changes: the application of the tax with respect to the admission charged for children under 12 years of age was eliminated; and the exception to the tax on free admissions was enlarged to include "persons in the military or naval forces of the United States when in uniform".

The exemption provisions were similarly reenacted in section 800(b) of the Revenue Act of 1918, but were extended to include admissions all of the proceeds of which inured exclusively to the benefit of "societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which are distributed to members of such organization, or exclusively to the benefit of persons in the military or naval forces of the United States".

The tax on amounts paid for admissions was continued in section 800(a)(1) of the Revenue Act of 1921, effective January 1, 1922, with a general exemption from the tax in respect to amounts of 10 cents or less paid for admissions. The tax on free admissions was repealed by section 1400(a) of the Revenue Act of 1921.

The exemption provisions were likewise continued in section 800(b)(A)(B) and (C) of the Revenue Act of 1921 and were enlarged to include admissions all the proceeds of which inured exclusively to the benefit of "any post of the American Legion or the women's auxiliary units thereof"; societies for the purpose of "improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theatre - if no part of the net earnings thereof inures to the benefit of any private stockholder or individual"; "exclusively to the benefit of persons who have served in such forces (the military or naval forces of the United States) and are in need"; "or admissions to any exhibit, entertainment, or other pay feature conducted by such association (an agricultural fair association) as part of any such fair - if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs".

The tax on amounts paid for admissions was continued in section 500(a)(1) of the Revenue Act of 1924, effective July 3, 1924, with an increase to 50 cents in respect to the admission payments exempted generally from the tax.

The exemption provisions were reenacted by section 500(b) of the Revenue Act of 1924, but this section omitted naming "any post of the American Legion or the women's auxiliary units thereof" and extended the exemptions to admissions the proceeds of which inured "exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual", and to admissions which inured "exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members".

The tax was reenacted in section 500(a)(1) of the Revenue Act of 1926, effective March 29, 1926, with a further increase to 75 cents in respect to the admission payments exempted generally from the tax. While the tax in force today is imposed under the Revenue Act of 1926, the statute has been amended at various times.

Section 411(a) of the Revenue Act of 1928, effective June 29, 1928, changed the law to read as follows;

"A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in case the amount paid for admission is $3 or less, no tax shall be imposed, and except that in case of admission to a prize fight, or boxing, sparring, or other pugilistic match or exhibition, for which the amount paid for admission is $5 or more, the tax shall be 25 per centum of such amount: Provided, That an equivalent tax shall be collected on all free or complimentary tickets or admissions to such prize fight, or boxing, sparring, or other pugilistic match or exhibition and the tax shall be on the amount for which a similar seat or box is sold at the said match or exhibition. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is $3 or less".

Section 711(a) of the Revenue Act of 1932, effective June 21, 1932, together with section 219 of the National Industrial Recovery Act, effective June 16, 1933, revised the statute to read as follows:

"A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in case the amount paid for admission is less than 41 cents, no tax shall be imposed. In the case of persons (except bona fide employees, municipal officers on official business, and children under 12 years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted, except that no tax shall be imposed in the case of persons admitted free to any spoken play (not a mechanical reproduction), whether or not set to music or with musical parts or accompaniments, which is a consecutive narrative interpreted by a single set of characters, all necessary to the development of the plot, in two or more acts, the performance consuming more than 1 hour and 45 minutes of time. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscribed for a single admission is less than 41 cents".

The specific exemptions were continued in section 500(b)(1) and (2) of the Revenue Act of 1926 and while in effect today under such section, they have also been amended at various times.

Section 711(c) of the Revenue Act of 1932 added a new subdivision to the exemption provisions of section 500 reading as follows:

"(e) The exemption from tax provided by subdivision (b)(1)(A) shall not be allowed in the case of admissions to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b)(1) shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States)."

Section 801 of the Revenue Act of 1936, effective June 22, 1936, amended section 500(b)(2) to extend the exemption provisions to include "any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of any stockholders or members of such association".

The tax, since its inception in the Revenue Act of 1917, is payable by the person paying the admission charges (or by the person under similar circumstances admitted free), and is collected by the person receiving the payments for admission, who in turn reports and pays the tax collected each month to the collector of internal revenue for the district in which his principal place of business is located.

Accordingly, to aid in the administration of this tax and of other taxes similarly collected or withheld, section 607 of the Revenue Act of 1934, effective May 10, 1934, was enacted to provide that:

"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."

The tax on amounts paid for admissions will continue in effect until specifically repealed. However, section 711(c) of the Revenue Act of 1932, as amended by section 212 of the National Industrial Recovery Act and Public Resolution No. 96 - 74th Congress, prospectively amends the law so that as previously provided for in the amendment made by section 411 of the Revenue Act of 1928, amounts of $.50 or less paid for admission will again be exempt from the tax on and after July 1, 1937.

Economic basis. - The tax is an excise tax and is payable by the persons paying admission charges. The tax affects the public directly but is collected by the operators of theatres, sports, and other amusements, who make remittances each month to the proper collector of internal revenue.

Payment of this tax is being made in all of the 64 collection districts. A check of the returns made for one month shows that the number of persons filing admission tax returns is approximately 5,400.

Inequities. - With respect to any conflict in the subject taxed, it may be stated that similar taxes are imposed by several of the States. No information is available, however, to show in what manner and to what extent the State taxes conflict with the Federal tax.

From the standpoint of Federal taxation, the instant tax is related to the various other taxes imposed under the several respective subdivisions of section 500 of the Revenue Act of 1926, as amended. There is no conflict, however, since the several taxes are but component parts of a design covering the general subject of admissions as a whole.

It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxed precludes the use of substitutes to escape the tax.

Various methods of tax avoidance have been resorted to, such as making erroneous claims for exemption on behalf of nonexempt organizations; collusion between certain officers of exempt organizations and promoters under fictitious contracts, the terms of which are not intended to be complied with; conducting taxable affairs without making reports thereof; reducing admission charges below taxable amounts for certain hours of the day or for certain performances or seats; failure to collect the tax from the public; failure to keep records, or keeping duplicate and false records. Many of these evasions are discovered during field audits and proper penalties are asserted in such cases.

Administrative difficulties. - There is no involved Bureau procedure in administering this tax. As the tax on admissions has been in effect since 1917, the regulations of the Bureau have been revised from time to time to meet changing conditions, and the records now required are hardly more than those necessary for the purposes of the persons required to collect the tax from their patrons.

The audit of the returns of this tax requires a detailed examination of the number of tickets of admission sold, the daily sales and performances for which sold, records of free or reduced rate admissions, the number of unsold tickets for each performance, and the exemptions, refunds, or credits claimed.

No statistics are available from which the actual cost of collecting this tax may be determined. The tax yields a substantial revenue and its administration is not unduly complicated. Hence, the tax is regarded as one having relatively a low collection cost.

As the statute is now worded, no tax may be assessed when it was not collected from the public, either through ignorance of the law or otherwise, except in the case of a "person who willfully fails to pay, collect, or truthfully account for and pay over" such tax, in which case it may be assessed as a penalty under the provisions of section 1114(d) of the Revenue Act of 1926. It is practically impossible to prove a "willful failure" to comply with the law, and very little success has been accomplished in asserting these penalties. Thus, substantial loss of revenue has resulted. To remedy this apparent defect, it is suggested that the administrative provisions of the law be amended to provide that any person who, regardless of the reason therefor, fails to collect the tax upon amounts paid for admissions (or the tax imposed under any of the related subdivisions of section 500), shall be subject to a liability equal to the amount of tax not collected.

Since the instant tax yields an appreciable amount of revenue and on the whole is not difficult to administer, it is recommended, subject to the above-suggested amendment, that the tax be continued at the rate now in force.

TAX ON TICKETS OF ADMISSION SOLD AT PLACES OTHER THAN THE TICKET OFFICE OF THE THEATRE, ETC.

Section 500(a)(2) of the Revenue Act of 1926, as amended.

Yield for the fiscal year - 1936 - $ 117,463.25
Yield for the fiscal year - 1937 - 125,000.00 Estimated
Number of taxpayers ---------- 100
Rate of tax - 10 per cent of the excess charge over the regular or established price or charge.

Statutory background. - The Federal tax on the amount of the excess charge made for tickets of admission to theatres, operas, and other places of amusement sold at places other than the ticket offices of such theatres, etc., was first imposed by section 800(a)(3) of the Revenue Act of 1918, effective April 1, 1919, at the rates of (a) 5 per cent of the excess if sold at a price not to exceed 50 cents in excess of the established price therefor at such ticket office plus the amount of the tax imposed on the admission charge, and (b) 50 per cent of the whole amount of such excess, if sold for more than 50 cents in excess of the sum of such established price plus the amount of tax on the admission charge.

Section 800(b) of the Revenue Act of 1918 exempted any admissions all the proceeds of which inured exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which were distributed to members of such organizations, or exclusively to the benefit of persons in the military or naval forces of the United States, or admissions to agricultural fairs none of the profits of which were distributed to stockholders or members of the association conducting the same. This exemption also applied to excess charges in cases where all of the proceeds from such excess charges inured exclusively to the benefit of the exempt organizations specifically named.

Section 800(a)(2) of the Revenue Act of 1921, effective January 1, 1922, reenacted the tax on excess charges for tickets of admission, as imposed by section 800(a)(3) of the Revenue Act of 1918, without change.

Section 800(b)(1)(A)(B) and (C) of the Revenue Act of 1921 reenacted the exemption provisions of section 800(b) of the Revenue Act of 1918, but extended them to admissions all the proceeds of which inured exclusively to the benefit of "any post of the American Legion or the women's auxiliary units thereof"; societies for the purpose "of improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theatre - if no part of the net earnings thereof inures

to the benefit of any private stockholder or individual"; "exclusively to the benefit of persons who have served in such forces (the military or naval forces of the United States) and are in need"; "or admissions to any exhibit, entertainment, or other pay feature conducted by such association (an agricultural fair association) as part of such fair - if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs".

Section 500(a)(2) of the Revenue Act of 1924, effective July 3, 1924, reenacted the tax on excess charges for tickets of admission, as imposed by section 800(a)(2) of the Revenue Act of 1921, without change.

Section 500(b) of the Revenue Act of 1924 reenacted the exemption provisions of section 800(a)(1)(A)(B) and (C), but omitted naming "any post of the American Legion or the women's auxiliary units thereof" and extended this exemption to admissions the proceeds of which inured "exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual". This section also extended the exemption to admissions which inured to the benefit of any private stockholder or individual". This section also extended the exemption to admissions which inured "exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members".

The taxes and the exemption provisions as imposed under and provided for in the Revenue Act of 1924 were reenacted without change in sections 500(a)(2) and 500(b)(1) and (2), respectively, of the Revenue Act of 1926, effective March 29, 1926.

Section 412 of the Revenue Act of 1928, effective June 29, 1928, amended section 500(a)(2) of the Revenue Act of 1926, to apply the 5 per cent tax to excess charges which did not exceed 75 cents in excess of the sum of the established price at the ticket office plus the amount of admissions tax, and 50 per cent tax to excess charges over 75 cents. The statute was further amended by section 711(b) of the Revenue Act of 1932, effective June 6, 1932, to substitute for the 5 per cent and 50 per cent taxes a single tax at the rate of 10 per cent on the amount of the excess charge.

The exemption provisions as reenacted in section 500(b) of the Revenue Act of 1926 have also been amended. Section 711(c) of the Revenue Act of 1932 added a new subdivision reading as follows:

"(c) The exemption from tax provided by subdivision (b)(1)(A) shall not be allowed in the case of admissions to wrestling matches,

prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b)(1) shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States)."

Section 801 of the Revenue Act of 1936, effective June 22, 1936, extended the exemption provisions to "any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of any stockholders or members of such association".

The tax imposed by section 500(a)(2) of the Revenue Act of 1926, as amended, remains in full force and effect until repealed by Congress.

Economic basis. - This tax is an excise tax but acts as a regulatory measure. The tax is payable by the person selling tickets of admission for an amount in excess of the sum of the established price therefor plus the amount of the tax upon the admission charge. While the business is not large, it is carried on throughout the country, particularly in the large cities, and tax is being paid in 25 of the 64 collection districts. A check of the returns filed for one month shows the number of taxpayers filing returns of this tax is approximately 100.

Inequities. - With respect to any conflict in the subject taxed, it is believed that several of the States impose some form of excise tax to regulate the activities of ticket brokers, particularly "scalpers". It is not known to what extent such taxes might be conflicting with the instant tax.

From the standpoint of Federal taxation, the instant tax is related to the various other taxes imposed under the several respective subdivisions of section 500 of the Revenue Act of 1926, as amended. There is no conflict, however, since the several taxes are but component parts of a design covering the general subject of admissions as a whole.

It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxed precludes the use of substitutes to escape the tax.

Various methods of tax avoidance and evasions have been resorted to, chiefly by persons who maintain no place of business and consummate transactions from hand to hand without keeping any records whatever. In some cases, taxpayers sought to avoid the tax by keeping false records, and by claiming that the excess charge was made merely for services rendered in securing tickets for customers.

Administrative difficulties. - The administrative procedure relating to this tax is not involved. The records required by the regulations conform as much as possible to those maintained by taxpayers conducting a "legitimate" business. The chief difficulty encountered is locating some information from which the liability of the so-called "sidewalk broker" may be determined.

The audit of the returns of this tax requires a detailed examination of the number of tickets purchased, the daily sales, the number of unsold tickets and disposition thereof, and the exemptions, refunds, and credits claimed.

No statistics are available from which the actual cost of collecting this tax may be determined but since the administration thereof is not complicated, it is believed that the cost of collection is quite low.

Since this tax acts as a regulatory measure in protecting the public and the legitimate theatre operators against ticket speculators, the Bureau recommends that it be continued in force.

....

TAX ON EXCESS ADMISSION CHARGES MADE BY PROPRIETORS, MANAGERS OR EMPLOYEES OF OPERA HOUSES, THEATRES, OR OTHER PLACES OF AMUSEMENT.

Section 800(a)(3) of the Revenue Act of 1926.

Yield for the fiscal year - 1936 - $ 15,379.87
Yield for the fiscal year - 1937 - 15,000.00 Estimated
Number of taxpayers ---------- 15
Rate of tax - 50 per cent of the excess charge.

Statutory background. - The Federal tax on the amount for which proprietors, managers, or employees of opera houses, theatres, or other places of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor was first imposed by section 800(a)(4) of the Revenue Act of 1918, effective April 1, 1919, at the rate of 50 per cent of such excess charge.

Section 800(b) of the Revenue Act of 1918 exempted any admissions all the proceeds of which inured exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which were distributed to members of such organizations, or exclusively to the benefit of persons in the military or naval forces of the United States, or admissions to agricultural fairs none of the profits of which were distributed to stockholders or members of the association conducting the same. This exemption also applied to excess charges in cases where all of the proceeds from such excess charges inured exclusively to the benefit of the exempt organizations specifically named.

The tax was reenacted without change in section 800(a)(3) of the Revenue Act of 1921, effective January 1, 1922. The exemption provisions were similarly reenacted in section 800(b)(1)(A)(B) and (C) of the Revenue Act of 1921, but were extended to include admissions all the proceeds of which inured exclusively to the benefit of "any post of the American Legion or the women's auxiliary units thereof"; societies for the purpose of "improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theatre - if no part of the net earnings thereof inures to the benefit of any private stockholder or individual"; "exclusively to the benefit of persons who have served in such forces (the military or naval forces of the United States) and are in need"; "or admissions to any exhibit, entertainment, or other pay feature conducted by such association (an agricultural fair association) as part of any such fair - if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs".

The tax was continued without change in section 500(a)(3) of the Revenue Act of 1924, effective July 3, 1924. While the exemption provisions were likewise continued in section 500(b) of the Revenue Act of 1924, this section omitted naming "any post of the American Legion or the women's auxiliary units thereof" and extended the exemption to admissions the proceeds of which inure "exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual;" and "exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members".

The tax as imposed and the exemptions as provided for in the Revenue Act of 1924 were reenacted without change, respectively, in sections 500(a)(3) and 500(b)(1) and (2) of the Revenue Act of 1926, effective March 29, 1926.

Section 711(c) of the Revenue Act of 1932, effective June 21, 1932, amended the exemption provisions of section 500(b) of the Revenue Act of 1926, by adding a new subdivision reading as follows:

> "(c) The exemption from tax provided by subdivision (b)(1)(A) shall not be allowed in the case of admissions to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b)(1) shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States)."

Section 801 of the Revenue Act of 1936, effective June 22, 1936, further enlarged upon the exemption provisions and amended section 500(b)(2) of the Revenue Act of 1926 to include "any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of any stockholders or members of such association".

This tax remains in full force and effect until repealed by Congress.

Economic basis. - This tax is an excise tax, but acts as a regulatory measure. The tax is payable by the proprietor, etc., selling tickets of admission for an amount in excess of the regular or established price therefor. The number of theatres making such excess charges through the country is comparatively small, but tax is being paid in 15 of the 64 collection districts.

Inequities. - No information is available showing in what manner and to what extent taxes imposed by the several States or local subdivisions

thereof upon proprietors of theatres, etc., may conflict with the instant tax.

From the standpoint of Federal taxation, the instant tax is related to the various other taxes imposed under the several respective subdivisions of section 500 of the Revenue Act of 1926, as amended. There is no conflict, however, since the several taxes are but component parts of a design covering the general subject of admissions as a whole.

It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxes obviously precludes the use of substitutes to escape the tax.

Various methods of tax avoidance and evasion have been resorted to, such as failure to keep proper records of excess charges, employees selling tickets at excess charges without knowledge of the proprietor or manager, proprietors or managers accepting a flat sum per week or month from ticket brokers as a so-called gratuity or service charge, etc.

Administrative difficulties. - There is no involved Bureau procedure in administering this tax. The audit of returns requires a detailed examination of the daily sales and disposition of tickets, the regular or established prices, the amount of the excess charge, if any, made, and the exemptions, refunds and credits claimed.

No statistics are available from which the cost of collecting this tax may be determined but it is believed that the cost of collection is relatively low.

Since the tax is an integral part of the taxing scheme applying to admissions generally and since the admission taxes as a whole produce a substantial revenue without undue administrative complications, it is recommended that the tax be continued in force.

TAX ON THE PERMANENT USE OF BOXES OR SEATS IN AN OPERA HOUSE, ETC., OR A LEASE FOR THE USE OF SUCH BOX OR SEAT IN AN OPERA HOUSE, ETC.

Section 500(a)(4) of the Revenue Act of 1926.

Yield for the fiscal year - 1936 - $ 59,849.48
Yield for the fiscal year - 1937 - 60,000.00 Estimated
Number of taxpayers ---------- 50
Rate of tax - 10 per cent of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for such lessee or holder.

Statutory background. - The Federal tax on the permanent use, or lease of boxes or seats in an opera house, or any place of amusement was first imposed by section 700(c) of the Revenue Act of 1917, effective November 1, 1917, at the rate of 10 per cent of the amount for which a similar box or seat in such opera house, etc., was sold for performance or exhibition at which the box or seat was used or reserved by or for the lessee or holder. In this instance, the tax was imposed on the right to the use of the box or seat and was based on the total amount that would be realized by the sale, at the established price, of the right to occupy a similar box or seat for each performance or exhibition during the period for which such box or seat was reserved for the lessee or holder. That is to say, the tax was governed not by the amount, if any, actually paid for the particular box or seat leased, nor by the actual use of the box or seat, but by the most extensive possible use at the established price for a similar accommodation.

Section 700 of the Revenue Act of 1917 exempted any admissions, all of the proceeds of which inured exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, or admissions to agricultural fairs none of the profits of which were distributed to stockholders or members of the association conducting the same. This exemption also applied to the permanent use or the lease of a box or seat in an opera house, etc., if the proceeds from such amounts inured exclusively to the benefit of the exempt organizations specifically named.

Section 800(a)(5) of the Revenue Act of 1918, effective April 1, 1919, reenacted the tax on the permanent use or lease of boxes or seats as imposed by section 700(c) of the Revenue Act of 1917, but inserted the word "each" before the word "performance" in that part of the section dealing with the rate of the tax, making it read in part as follows:

> " * *, a tax equivalent to 10 per centum of the amount for which a similar box or seat is sold for each performance or exhibition * * *."

Section 800(b) of the Revenue Act of 1918 reenacted the exemption provisions of section 700 of the Revenue Act of 1917, but extended them to include admissions all of the proceeds of which inured exclusively to the benefit of "societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which are distributed to members of such organization, or exclusively to the benefit of persons in the military or naval forces of the United States".

The tax was also reenacted without change by section 800(a)(4) of the Revenue Act of 1921, effective January 1, 1922. While the exemption provisions were similarly reenacted by section 800(b)(A)(B) and (C) of the Revenue Act of 1921, they were extended to include admissions all the proceeds of which inured exclusively to the benefit of "any post of the American Legion or the women's auxiliary units thereof"; societies for the purpose "of improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theatre - if no part of the net earnings thereof inures to the benefit of any private stockholder or individual"; "exclusively to the benefit of persons who have served in such forces (the military or naval forces of the United States) and are in need"; "or admissions to any exhibit, entertainment, or other pay feature conducted by such association (an agricultural fair association) as part of any such fair, - if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs".

The tax was further continued without change in section 500(a)(4) of the Revenue Act of 1924, effective July 5, 1924. The exemption provisions were likewise continued in section 500(b) of the Revenue Act of 1924, but this section omitted naming "any post of the American Legion or the women's auxiliary units thereof" and extended the exemptions to admissions the proceeds of which inured "exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual", and to admissions which inured "exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members".

The tax as imposed under, and the exemptions provided for in, the Revenue Act of 1924 were reenacted without change, respectively, in section 500(a)(4) and sections 500(b)(1) and (2) of the Revenue Act of 1926, effective March 29, 1926. Subject to the amendments set out below, such sections constitute the law in effect at present.

Section 711(c) of the Revenue Act of 1932, effective June 21, 1932, amended the exemption provisions by adding a new subdivision reading as follows:

"(c) The exemption from tax provided by subdivision (b)(1)(A) shall not be allowed in the case of admissions to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b)(1) shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States)."

Section 801 of the Revenue Act of 1936, effective June 22, 1936, further extended the exemption provisions to include "any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of any stockholders or members of such association."

The tax, since its inception in the Revenue Act of 1917, is payable by the person paying for the permanent use of lease of boxes or seats in an opera house, etc., and is collected by the person receiving such payments, who in turn reports and pays the tax collected each month to the collector of internal revenue for the district in which his principal place of business is located.

Accordingly, to aid in the administration of this tax and of other taxes similarly collected or withheld, section 607 of the Revenue Act of 1934, effective May 10, 1934, was enacted to provide that:

"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."

The tax as now imposed by section 500(a)(4) of the Revenue Act of 1926 will remain in full force and effect until repealed by Congress.

Economic basis. - This tax is an excise tax and is payable by the person paying for the permanent use or lease of boxes or seats in an opera house, etc. While the tax affects the public directly, it is collected by the operators of the theatrical and other amusement enterprises, who make remittances each month to the proper collector of internal revenue. The practice of leasing boxes and seats is followed by a small percentage of the above-named operators, but substantial tax is being paid in 38 of the 64 collection districts. A check of the returns for one month shows that

the number of persons filing returns of this tax is approximately 50.

Inequities. - The Bureau is not aware of any State tax which might be regarded as conflicting with the Federal tax on the use or lease of boxes or seats in an opera house, etc.

From the standpoint of Federal taxation, the instant tax is related to the various other taxes imposed under the several respective subdivisions of section 500 of the Revenue Act of 1926, as amended. There is no conflict, however, since the several taxes are but component parts of a design covering the general subject of admissions as a whole.

It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxed precludes the use of substitutes to escape the tax. Practically no attempts at avoidance or evasion have been uncovered in respect to this tax.

Administrative difficulties. - The administrative procedure relating to this tax is not involved. The tax has been in effect since 1917 and the regulations of the Bureau have been revised from time to time to meet changing conditions, and the records now required are hardly more than those necessary for purposes of the operators of the theatrical or other amusement enterprises.

The audit of the returns of this tax requires a detailed examination of the agreement or lease contract with respect to the use or lease of the boxes or seats, the number of performances, etc., covered thereby, and the price for which a similar box or seat is sold for each performance or exhibition. Some difficulty is experienced in the computation of the tax because of the necessity of determining, at the time a box or seat is leased, the admission charges for a similar accommodation to all future affairs to be held during the period of such lease.

No statistics are available from which the actual cost of collecting this tax may be determined. However, it is believed that the cost is within the average cost of collecting the respective miscellaneous and sales taxes.

Since the tax is an integral part of the taxing scheme applying to admissions generally and since the admission taxes as a whole produce a substantial revenue without undue administrative complications, it is recommended that the tax be continued in force.

TAX ON ADMISSION TO ANY PUBLIC PERFORMANCE FOR PROFIT AT ANY ROOF GARDEN, CABARET, OR SIMILAR ENTERTAINMENT TO WHICH THE CHARGE FOR ADMISSION IS WHOLLY OR IN PART INCLUDED IN THE PRICE PAID FOR REFRESHMENT, SERVICE, OR MERCHANDISE.

Section 500(a)(5) of the Revenue Act of 1926.

Yield for the fiscal year - 1936 - $ 1,336,535.10
Yield for the fiscal year - 1937 - 1,300,000.00 Estimated
Number of taxpayers ---------- 1,400
Rate of tax - 1½ cents for each 10 cents or 20 per cent of the amount paid for refreshment, service, or merchandise.

Statutory background. - The Federal tax on admissions to any public performance for profit at any roof garden, cabaret, or similar entertainment to which the charge for admission is wholly or in part included in the amount paid for refreshment, service, or merchandise, was first imposed by section 700(c) of the Revenue Act of 1917, effective November 1, 1917, at the rate of 1 cent for each 10 cents or fraction thereof of the amount paid for admission, which amount was computed under rules prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

Section 700 of the Revenue Act of 1917 exempted any admissions, all of the proceeds of which inured exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, or admissions to agricultural fairs none of the profits of which were distributed to stockholders or members of the association conducting the same. This exemption also applied to amounts paid for admission to roof gardens, cabarets, or similar entertainments, if the proceeds from such amounts inured exclusively to the benefit of the exempt organizations specifically named.

The tax was continued in section 800(a)(6) of the Revenue Act of 1918, effective April 1, 1919, at an increased rate of 1½ cents for each 10 cents or fraction thereof of the amount paid for admission. This section provided that 20 per cent of the amount paid for refreshment, service, or merchandise should be deemed as the taxable amount paid for admission.

The exemption provisions were similarly continued in section 800(b) of the Revenue Act of 1918 and were extended to include admissions all of the proceeds of which inured exclusively to the benefit of "societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which are distributed to members of such organizations, or exclusively to the benefit of persons in the military or naval forces of the United States".

The tax as imposed under the Revenue Act of 1918 was reenacted without change by section 800(a)(5) of the Revenue Act of 1921, effective January 1, 1922. The exemption provisions were likewise reenacted in section 800(b)(1)(A)(B) and (C) of the Revenue Act of 1921, but were extended to include admissions all the proceeds of which inured exclusively to the benefit of "any post of the American Legion or the women's auxiliary units thereof"; societies for the purpose "of improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theatre - if no part of the net earnings thereof inures to the benefit of any private stockholder or individual"; "exclusively to the benefit of persons who have served in such forces (the military or naval forces of the United States) and are in need"; "or admissions to any exhibit, entertainment, or other pay feature conducted by such association (an agricultural fair association) as part of any such fair - if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs".

Section 500(a)(5) of the Revenue Act of 1924, effective July 3, 1924, reenacted the tax on admission to roof gardens, cabarets, or similar entertainments as imposed by section 800(a)(5) of the Revenue Act of 1921, without change in the basis or rate of the tax, but provided that the tax would not apply when the charge for admission was 50 cents or less.

Section 500(b) of the Revenue Act of 1924 reenacted the exemption provisions of section 800(b)(1)(A)(B) and (C) of the Revenue Act of 1921, but this section omitted naming "any post of the American Legion or the women's auxiliary units thereof" but extended the exemptions to admissions the proceeds of which inured "exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such post or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual", and to admissions which inured "exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members".

Sections 500(a)(5) and 500(b)(1) and (2) of the Revenue Act of 1926, effective March 29, 1926, reenacted the tax and the exemptions as provided for in the Revenue Act of 1924, without change.

Section 711(c) of the Revenue Act of 1932, effective June 21, 1932, amended the exemption provisions by adding a new subdivision reading as follows:

> "(c) The exemption from tax provided by subdivision (b)(1)(A) shall not be allowed in the case of admissions to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b)(1)

shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States)."

Section 801 of the Revenue Act of 1936, effective June 22, 1936, further extended the exemption provisions to include "any admissions to concerts conducted by a civic or community membership association if no part of the net earnings inures to the benefit of any stockholders or members of such association."

The tax, since its inception in the Revenue Act of 1917, is payable by the person paying the admission charges, and is collected by the person receiving the payments for admission, who in turn reports and pays the tax collected each month to the collector of internal revenue for the district in which his principal place of business is located.

Accordingly, to aid in the administration of this tax and of other taxes similarly collected or withheld, section 607 of the Revenue Act of 1934, effective May 10, 1934, was enacted to provide that:

> "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."

The tax on admissions to roof gardens, cabarets, or similar entertainment, as imposed by section 500(a)(5) of the Revenue Act of 1926, remains in full force and effect until repealed by Congress.

Economic basis. - The tax is an excise tax and is payable by the person paying the admission charges. This tax affects the public directly but is collected by the operators of the hotel, restaurant, or like establishment, who makes remittances each month to the proper collector of internal revenue. Payment of this tax is being made in practically every one of the 64 collection districts. A check of the returns filed for one month shows that the number of persons filing returns of this tax is approximately 1,400.

Inequities. - No information is available showing in what manner or to what extent any of the excise taxes imposed by the several states might be in conflict with the instant tax.

From the standpoint of Federal taxation, the instant tax is related to the various other taxes imposed under the several respective

subdivisions of section 500 of the Revenue Act of 1926, as amended. There is no conflict, however, since the several taxes are but component parts of a design covering the general subject of admissions as a whole.

It is not believed that there has been any retarding of trade or curtailment of business due to this tax. The nature of the subject taxed precludes the use of substitutes to escape the tax.

Various methods of tax avoidance or evasion have been resorted to, such as the failure to keep proper records, the keeping of false or duplicate records for tax purposes, the proration of the total charges on a bill for a number of persons among the several persons so as to bring the prorated charges below the taxable amount, etc.

Administrative difficulties. - The procedure for administering this tax is not involved. The tax has been in effect since 1917 and the regulations of the Bureau have been revised from time to time to meet changing conditions so that the records now required are hardly more than those necessary for the purposes of the operators charged with the collection of the tax from their patrons.

The computation of the tax is somewhat complicated, partly because of the law and partly because of the relationship of this tax to that imposed upon admissions generally under section 500(a)(1) of the Revenue Act of 1926, as amended.

The tax imposed by section 500(a)(5) is fixed at the rate of 1½ cents for each 10 cents or fraction thereof of 20 per cent of the amount charged for food, refreshment or merchandise, provided that such 20 per cent exceeds 50 cents. Section 500(a)(1) imposes a tax of 1 cent on each 10 cents or fraction thereof of the amount paid for admissions generally, when the amount of such payment exceeds 41 cents. In many cases, roof gardens, cabarets, etc., render a so-called "cover charge" which is in the nature of an admission charge and which in some instances covers the entire cost of the entertainment and, in other instances, defrays such cost only in part. As interpreted by the Bureau, the tax under section 500(a)(1) applies to the "cover charge" in every instance, while the tax under section 500(a)(5) applies in such case only when the amount of the cover charge is inadequate to cover the cost of the entertainment so that part of such cost is included in the charge made for food, refreshment, or merchandise. Hence, due to these complications, it is necessary in applying the instant tax to make an examination of the daily food and refreshment checks, and to consider the adequacy of the cover charge (where rendered) in relation to the cost of the entertainment. In addition, these complications, when coupled with inadequate records, make it difficult to determine the tax liability in cases of delinquent taxpayers.

As the statute is now worded, no tax may be assessed when it was not collected from the public, either through ignorance of the law or otherwise, except in the case of a "person who willfully fails to pay, collect, or truthfully account for and pay over" the tax, in which case it may be assessed as a penalty under the provisions of section 1114(d) of the Revenue Act of 1926. It is practically impossible to prove a "willful failure" to comply with the law, and very little success has been accomplished in asserting these penalties. Thus, a large loss of revenue has resulted.

The foregoing objections could be overcome by changing the basis of the levy from a tax of 1½ cents for each 10 cents of the amount considered as paid for "admissions" to any roof garden, cabaret, or similar entertainment, to a tax at the rate of, say, 2 per cent upon the entire amount received by the proprietors or operators of such establishments for the refreshment and service, as well as the entertainment furnished their patrons. In that event, the so-called "cover charge" should be included in such tax and by an appropriate provision excluded from the general admissions tax imposed under section 500(a)(1) of the Revenue Act of 1926, as amended. Such tax would eliminate the complications in the calculation of the tax now in force and also would avoid the loss of revenue resulting from the failure of roof garden and cabaret proprietors or operators to collect the present tax from their patrons. If this suggestion be not adopted, then to protect the revenue against loss from a non-collection of the present tax, it is suggested that the administrative provisions of the law be amended to provide that any person who, regardless of the reason therefor, fails to collect the tax imposed under subdivision (a)(5) of section 500 (or the tax imposed under any of the related subdivisions of such section), shall be subject to a liability equal to the amount of the tax not collected.

The actual cost of collecting the instant tax is not known. Experience indicates that the cost is within the average cost of collecting the respective miscellaneous and sales taxes.

Since the tax is an essential part of the taxing scheme applying to admissions generally and since the admission taxes produce a considerable revenue and as a whole are fairly simple to administer, it is recommended that the instant tax be continued either in the revised form or with the administrative amendment suggested herein.

TAX ON DUES AND INITIATION FEES PAID TO SOCIAL, ATHLETIC, OR SPORTING CLUBS OR ORGANIZATIONS.

Section 501 of the Revenue Act of 1926, as amended.

Yield for the fiscal year - 1936 - $ 6,050,923.21
Yield for the fiscal year - 1937 - 6,100,000.00 Estimated
Number of taxpayers ---------- 3,200
Rate of tax - (a) 10 per cent of amount paid as dues, if the dues of active resident annual members exceed $25.00 per year;
(b) 10 per cent of amount paid as initiation fees, if such fees exceed $10.00 per year, or if the dues of active resident annual members exceed $25.00 per year.

Statutory background. - The Federal tax on amounts paid as dues or membership fees (including initiation fees) to any social, athletic, or sporting club or organization was first imposed by section 701 of the Revenue Act of 1917, effective November 1, 1917, at the rate of 10 per cent of the amount paid, where such dues or fees were in excess of $12.00 per year.

Section 701 of the Revenue Act of 1917 exempted from this tax all amounts paid as dues or fees to a fraternal beneficiary society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order, or association, or their dependents.

The tax was reenacted in section 801 of the Revenue Act of 1918, effective April 1, 1919, with a reduction from $12.00 to $10.00 in the amount of fees and dues exempted generally and with provisions for an equivalent tax to be paid by life members of the organizations coming within the scope of the tax. In addition, this section modified the specific exemptions to include only dues or fees paid to a fraternal society, order, or association operating under the lodge system.

The tax and exemptions as provided for in the Revenue Act of 1918 were reenacted without change in section 801 of the Revenue Act of 1921, effective January 1, 1922.

The tax was also reenacted without change in section 501 of the Revenue Act of 1924, effective July 3, 1924, but this section extended the specific exemptions to include dues or fees paid to any local fraternal

organization among the students of a college or university.

The tax and the exemption provisions were reenacted without change in section 501 of the Revenue Act of 1926, effective March 29, 1926. While the tax now in effect is imposed under such section, the statute was amended on June 29, 1928, by section 413 of the Revenue Act of 1928 so that the tax is levied at present with respect to amounts paid-

1. "As dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of $25 per year; or

2. "As initiation fees to such a club or organization, if such fees amount to more than $10, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of $25 per year."

The tax will remain in full force and effect until it is repealed by Congress.

The tax, since its inception in the Revenue Act of 1917, is payable by the person paying the dues or fees, and is collected by the person receiving the payments of such dues or fees, who in turn reports and pays the tax collected each month to the collector of internal revenue for the district in which the club's, etc., principal place of business is located.

Accordingly, to aid in the administration of this tax and of other taxes similarly collected or withheld, section 607 of the Revenue Act of 1934, effective May 10, 1934, was enacted to provide that:

> "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."

Economic basis. - The tax is an excise tax and is paid by the persons paying the taxable dues or fees to the classes of organizations named in the statute. The tax thus affects the public directly, although it is collected by the club and remitted by such organization to the proper collector of internal revenue. Payments of this tax are being made in every one of the 64 collection districts. A check of the returns filed for one month shows that the number of organizations filing dues tax returns is approximately 3,200.

Inequities. - The Bureau is not aware of any tax, whether Federal or State, which might be regarded as conflicting with the instant tax.

In scope, the tax embraces "membership" clubs of a social, athletic, or sporting character, that is organizations in which the members have a right in the property of the club, or at least a voice in the management or operation of the facilities afforded. In view of this fact, the tax has been avoided by reorganization of clubs into partnerships or corporations in which the so-called members are mere privilege holders and have no rights except the limited use of the facilities afforded in return for the fees paid. Obviously, this condition results in a discrimination against the clubs in which the members retain their full membership rights with a consequent loss of revenue to the Government.

In the recent years, several court decisions have been rendered (Weld v. Nichols, 9 Fed. 977, Baltimore Country Club v. U.S., 57 Fed.(2d) 283, Wm. H. Williamson v. U.S., 12 Fed. Supp. 26, Garden City Golf Club v. Corwin, 62 Fed. (2d) 246), holding certain types of golf fees not to be dues or membership fees. Since then, clubs all over the country are revising the scale of their dues and membership fees so as to separate the former taxable charges into (a) dues and fees of less than the taxable minimum, or $25.00, and (b) golf or special privilege fees which are not taxable under the foregoing court decisions. This also discriminates against the clubs which have not resorted to such a subterfuge, and likewise results in a loss of revenue to the Government.

Other methods of tax avoidance or evasion have been attempted. In addition to the two practices outlined above, a number of clubs have changed their certificates of incorporation, or constitutions and by-laws, to omit references to social activities in attempting to show that the predominant purpose of the club is something other than social. In a number of such cases, it was later found the social activities as put into actual practice had not changed.

Administrative difficulties. - The procedure for administering this tax is not involved. The tax has been in effect since 1917 and the regulations have been developed to the point where the records now required are hardly more than those necessary for the purposes of the club charged with the collection of the tax.

In the past, some difficulty was experienced in determining the social character of various organizations. However, this difficulty has been overcome fairly well by established tests and precedents. Administrative problems still exist with respect to the differentiation between taxable membership fees and nontaxable fees for special privileges and also between membership clubs and proprietary enterprises not constituting taxable organizations.

The audit of the returns of this tax requires a detailed examination of the certificate of incorporation and of the constitution or by-laws to classify the club, the list of members, the classes of membership, the amount of initiation fees and dues or membership fees applicable to each class, the facilities afforded, the actual activities of the club as put in practice, the amount of dues and fees received and the tax collected thereon, charges for special privileges or services furnished and the nature thereof, and the exemptions, refunds, or credits claimed.

No statistics are available from which the actual cost of collecting this tax may be determined. The administrative experience indicates that the cost of collection is quite low.

As the statute is now worded, no tax may be assessed when it was not collected from the members of the club, etc., either through ignorance of the law or otherwise, except in the case where a "person willfully fails to pay, collect, or truthfully account for and pay over" this tax, in which case it may be assessed as a penalty under the provisions of section 1114(d) of the Revenue Act of 1926. It is practically impossible to prove a "willful failure" to comply with the law, and very little success has been accomplished in asserting these penalties. To remedy this apparent defect, it is suggested that the administrative provisions of the law be amended to provide that any person who, regardless of the reason therefor, fails to collect the tax upon the taxable dues and fees, shall be subject to a liability equal to the amount of the tax not collected.

Subject to the above-suggested amendment, it is recommended that the tax on club dues and fees be continued in force.

TAX ON PISTOLS AND REVOLVERS

Section 600(2) of the Revenue Act of 1926.

Yield for the fiscal year - 1936 - $ 60,627.64
Yield for the fiscal year - 1937 - 60,500.00 Estimated
Number of taxpayers ---------- 10
Rate of tax - 10 per cent of manufacturer's, producer's, or importer's sale price.

Statutory background. - Section 900(10) of the Revenue Act of 1918, effective February 25, 1919, first imposed the Federal tax on the sale or lease by the manufacturer, producer, or importer of firearms, shells, and cartridges. Pistols and revolvers were included in the products taxed under this section. The tax was levied at the rate of 10 per cent of the price for which such articles were sold. This section specifically exempted the sale of such articles for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, the District of Columbia, or any foreign country while engaged against the German Government in the World War.

The tax was reenacted without change as to rate in section 900(7) of the Revenue Act of 1921, effective January 1, 1922. This section also reenacted the exemptions on the sale (or lease) of such articles for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, but omitted the exemption granted with respect to sales for the use of foreign countries engaged against the German Government in the World War.

The tax was continued without change in section 600(6) of the Revenue Act of 1924, effective July 3, 1924, and remained in effect until its repeal on February 26, 1926, by section 1200(a) of the Revenue Act of 1926.

Section 600(2) of the Revenue Act of 1926, effective February 26, 1926, imposes a tax on the sale or lease by the manufacturer, producer or importer of pistols and revolvers, at the rate of 10 per cent of the price for which sold or leased. This section specifically exempts sales of such articles for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia. No amendments have been made to this section. The tax will remain in full force and effect until specifically repealed.

Economic basis. - This tax is an excise tax, but acts somewhat as a regulatory measure, and is paid by the manufacturer, producer, or importer on his sale of the articles specified. The industry is confined to a relatively small number of manufacturers and tax is being paid in only 10 of the 64 collection districts. A check of the returns for one month shows that the number of taxpayers filing returns for this tax is approximately 10.

The manufacturer's prices of pistols and revolvers are more or less stable, but vary according to supply and demand, location in which sold, quality, size, type, and model.

Inequities. - With respect to any conflict in the subjects taxed, no doubt these products are indirectly affected by some of the excise taxes imposed by the several States, but whether such State taxes conflict with the present tax is not known.

There is no conflict from the standpoint of Federal taxes. While firearms are taxed under the National Firearms Act of 1934 and section 610 of the Revenue Act of 1932, pistols and revolvers are specifically excluded from the scope of those statutes.

It is believed that an economic survey of the industry will show that generally there has been no retarding of trade, curtailment of consumption, or use of substitutes due to the imposition of this tax.

Administrative difficulties. - There is no involved Bureau procedure relative to the administration of this tax. The records, etc., required to be kept by the Bureau's regulations are no more than those usually required by these taxpayers for their own purposes.

No flagrant attempts to avoid or evade the tax have been disclosed nor have any particular difficulties been encountered in the administration of this tax.

The audit of the returns in this instance requires a detailed examination of the opening and closing inventories, production and cost records, uses of the products by taxpayer, sales and other distribution records and evidence supporting claims for exemption, refund, or credit.

No statistics are available from which the actual cost of collecting this tax may be determined but the cost of collection is considered to be extremely low.

The Bureau has no recommendation to make in this instance since the statute is clear and simple and the tax is easy to administer.

In the event the National Firearms Act is amended to include tax on pistols and revolvers, as was advocated by the Department of Justice at the last session of Congress, which recommendation it is understood will be renewed at the next session of Congress, it is likely this tax would be superseded by such amendment in the same manner that firearms now taxed under the National Firearms Act are exempted under certain circumstances from the tax imposed by section 610 of the Revenue Act of 1932.

DOCUMENTARY STAMP TAXES

Schedule A, Title VIII, Revenue Act of 1926, as amended.

	Yield for the fiscal year 1936	Yield for the fiscal year 1937 (Estimated)
Bonds of indebtedness, issues and transfers; issues of capital stock; passage tickets; foreign insurance policies; deeds of conveyance	$ 24,869,524.41	$ 26,000,000.00
Sales or transfers of capital stock and similar interests	33,054,798.14	36,000,000.00
Sales of produce for future delivery	2,943,542.37	3,800,000.00
Playing cards	4,143,698.44	4,200,000.00
Documentary stamp sales by post offices	3,293,134.01	
Totals	$ 68,304,697.37	$ 70,000,000.00

Statutory background. - Documentary stamp taxes were first imposed by the Act of July 1, 1862, and other Civil War taxing acts and were continued throughout the effective periods of such acts. They were again imposed by the Act of June 13, 1898, partly repealed by the Act of March 2, 1901, and wholly repealed by the Act of April 12, 1902. They were later revived by the Act of October 22, 1914, and successively reenacted by the Revenue Acts of 1917, 1918, 1921, 1924 and 1926. The documentary stamp taxes now in force are imposed under Schedule A, Title VIII, of the Revenue Act of 1926, as amended, and the subjects to which such taxes apply are presented herein in the order enumerated in such Schedule A.

Issues of bonds of indebtedness by corporations.

Subdivision 1 of Schedule A imposes a stamp tax on all bonds, debentures, or certificates of indebtedness issued by any corporation and on all instruments, however termed, issued by any corporation with interest coupons or in registered form, and known generally as corporate securities. In the prior acts, the tax applied to bonds of "any person" whether corporate or individual, but in the 1926 Act the scope of the tax was limited to corporate obligations. As originally enacted in the 1926 Act, the rate of tax was 5 cents on $100.00

or fraction thereof of the face value of the bond, etc., which rate was also in effect under the Revenue Acts of 1917, 1918, 1921 and 1924. Effective as of June 21, 1932, subdivision 1 of Schedule A of the Revenue Act of 1926 was amended by section 721 of the Revenue Act of 1932 so as to increase the rate from 5 to 10 cents on each $100.00 of face value or fraction thereof. The increased rate of 10 cents was intended to be in effect until July 1, 1934, when the original rate of 5 cents would again apply. However, the duration of the increased rate was extended to July 1, 1935, by section 212 of the National Industrial Recovery Act and further extended to July 1, 1937, by Public Resolution No. 36, 74th Congress (49 Stat.431). Accordingly, the increased rate of 10 cents is in effect at the present time and unless further extended will remain in effect until July 1, 1937, and will then be succeeded by the original rate of 5 cents.

Issues of capital stock.

Subdivision 2 of Schedule A of the Revenue Act of 1926, as originally enacted, imposes a stamp tax on original issues by corporations of certificates of capital stock or of profits, or of interest in property or accumulations. The corresponding provisions of the preceding Revenue Acts of 1918, 1921 and 1924 were expressed in identical terms. The rate of tax prior to the Revenue Act of 1921 was 5 cents on each $100.00 of the par or face value, or fraction thereof, of the certificate and in the case of no par stock, 5 cents a share unless the actual value was in excess of $100.00 per share in which event the rate was 5 cents on each $100.00 of actual value or fraction thereof. In addition to carrying forward these rates the Revenue Act of 1921 provided for a new rate in the case of no par stock having an actual value of less than $100.00 a share, in which case the rate was fixed at 1 cent on each $20.00 of actual value or fraction thereof. No change in the tax rates was made in subdivision 2 of Schedule A as originally enacted in the Revenue Act of 1926. Such subdivision was materially amended, effective as of June 21, 1932, by section 722 of the Revenue Act of 1932. The scope of the statute was enlarged to include "shares" as well as "certificates" of stock so as to reach corporations which did not issue certificates for their shares and also to include investment trusts and similar organizations which were conducted as unincorporated associations. In addition, the tax rates were doubled, that is, the rate of 5 cents was increased to 10 cents and the rate of 1 cent to 2 cents in the specific instances above outlined. As in the case of the tax on the issue of corporate bonds, the increased rates were intended to be in effect only until July 1, 1934, but were extended until July 1, 1937, and so will be in effect until the latter date, at which time the original rates will again apply.

Sales or transfers of stock and similar interests.

Subdivision 3 of Schedule A of the Revenue Act of 1926 imposes a stamp tax on all sales, agreements to sell, memoranda of sales or deliveries of, or transfers of legal title, or transfers of rights to subscribe for or

to receive shares or certificates of capital stock and similar interests. The tax was originally imposed in the 1926 Act at the same rate in effect under the prior Acts of 1921 and 1924, namely, 2 cents on each $100.00 of the par or face value of the certificate or fraction thereof, or 2 cents on each share in the case of no par stock. Effective as of June 21, 1932, this subdivision was amended by section 723 of the Revenue Act of 1932 and the above tax rate was increased from 2 to 4 cents with the provision, however, that in case the selling price, if any, is $20.00 or more per share, the rate shall be 5 cents instead of 4 cents. In this instance, the new rates were also intended to be applied only until July 1, 1934, but were later extended to July 1, 1937, and so will be in effect until the latter date, at which time the original rate of 2 cents will again apply.

Sales of produce on exchange for future delivery.

Subdivision 4 of Schedule A of the Revenue Act of 1926 imposes a stamp tax on each sale, agreement of sale, or agreement to sell any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery. In the Revenue Acts of 1917, 1918 and 1921, the rate of tax was fixed at 2 cents on each $100.00 or fraction thereof in value of the merchandise covered by the sale, etc. In the Revenue Act of 1924, the rate was reduced to 1 cent and such rate was carried over into the Revenue Act of 1926. This subdivision was amended, effective as of June 21, 1932, by section 726 of the Revenue Act of 1932 and the rate increased to 5 cents. By virtue of the general extension provided for in section 212 of the National Industrial Recovery Act, the increased rate of 5 cents remained in effect until May 11, 1934, when by a further amendment provided for in section 612 of the Revenue Act of 1934 the rate was reduced from 5 cents to 3 cents. Under the further general extension made in Public Resolution No. 36, 74th Congress, the rate of 3 cents is effective until July 1, 1937, at which time the former rate of 1 cent will again be in force.

Passage tickets.

Subdivision 5 of Schedule A of the Revenue Act of 1926 originally imposed a stamp tax on passage tickets, one way or round trip, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada or Mexico. The corresponding provisions of the prior Revenue Acts of 1917, 1918, 1921 and 1924 were expressed in identical terms. This subdivision was amended by section 442 of the Revenue Act of 1928 to include passage tickets to Cuba in the exemptions from the tax. The tax rates in effect since 1917 are: $1.00 on tickets costing more than $10.00 and not exceeding $30.00, $3.00 on tickets costing more than $30.00 and not exceeding $60.00, and $5.00 on tickets costing more than $60.00.

Playing cards.

Subdivision 6 of Schedule A of the Revenue Act of 1926 imposes a stamp tax at the rate of 10 cents on every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale. In this instance, Schedule A supplements the Act of August 27, 1894, under which the tax on playing cards was first imposed. The tax was originally fixed at the rate of 2 cents a pack. The Revenue Act of 1917 imposed an additional tax of 5 cents, making a total tax of 7 cents a pack. The Revenue Acts of 1918 and 1921 imposed a tax of 8 cents a pack in lieu of the original tax and additional tax in effect under the prior Acts. The Revenue Act of 1924 increased the rate to 10 cents a pack and such rate was carried forward in the Revenue Act of 1926 and is still in effect.

Foreign insurance policies.

Subdivision 7 of Schedule A of the Revenue Act of 1926 imposes a stamp tax on each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed (reinsurance excepted) upon property within the United States, including rents and profits, against peril by sea or on inland waters, or in transit on land, or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory or District of the United States within which such insurer is authorized to do business. The tax is imposed at the rate of 3 cents on each dollar, or fractional part thereof, of the premium charged. No change, either in the rate or application, has been made since the initiation of the tax in its present form in the Revenue Act of 1918.

Deeds of conveyance.

Effective as of June 21, 1932, section 725 of the Revenue Act of 1932 added subdivision 8 to Schedule A of the Revenue Act of 1926, under which a stamp tax is imposed on any deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, exceeds $100.00. The tax applies at the rate of 50 cents for each $500.00 or fractional part thereof of the net amount of the consideration or of the net value of the interest or property conveyed. A like tax at the same rate has been imposed under the prior Revenue Acts of 1917 to 1924, inclusive, but the tax was discontinued at the time of the enact-

ment of the Revenue Act of 1926 and later restored by section 725 of the Revenue Act of 1932. As thus restored, the tax was intended to be in effect only until July 1, 1934. The duration of the tax has been extended, however, until July 1, 1937, by the general statutory extensions already cited and unless further extended, the tax will expire on such date.

Transfers of corporate bonds of indebtedness.

Effective as of June 21, 1932, section 724 of the Revenue Act of 1932 added subdivision 9 to Schedule A of the Revenue Act of 1926 under which a stamp tax is imposed on all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned and described in subdivision 1 and of a kind the issue of which is taxable thereunder; that is, bonds, debentures, certificates of indebtedness issued by any corporation, etc. The tax applies at the rate of 4 cents on each $100.00 or fraction thereof of the face value of the instrument. No similar tax was imposed in this instance under the prior Revenue Acts of 1917, 1918, 1921 and 1924. Section 724 of the Revenue Act of 1932 originally provided for the repeal of this stamp tax on July 1, 1934, but by virtue of the statutory general extensions already cited, the tax will continue in effect until July 1, 1937, at which time, if not further extended, the tax will expire.

Transfers of interests in silver bullion.

Subdivision 10 of Schedule A of the Revenue Act of 1926 was added by section 8 of the Silver Purchase Act of 1934, approved June 19, 1934, and imposes a stamp tax on all transfers of interests in silver bullion. The tax applies at the rate of 50 per centum of the excess of the price for which the interest is transferred over the sum of the cost of such interest plus allowed expenses. The tax is an incident of the monetary policies of the Government and was made part of Schedule A merely to make use of the statutory administrative provisions applying to stamp taxes generally and thereby avoid an unnecessary repetition of such administrative provisions in the Silver Purchase Act.

Economic basis. - With the exception of the tax on transfer of interests in silver bullion, the stamp taxes imposed under Schedule A, Title VIII of the Revenue Act of 1926, are essentially excise taxes enacted strictly as revenue measures. The stamp tax on foreign insurance policies might be regarded as intended to promote the business of domestic insurers, but such conclusion can not be safely made since in that case the tax apparently would apply to all insurable risks, whereas foreign policies covering loss from burglary, theft, embezzlement, etc., are not within the scope of the tax. Since returns are not required for stamp tax purposes, no estimate can be made as to the number of taxpayers involved. An exception applies, however, with respect to the tax on playing cards. In that instance, manufacturers, repackers, and importers are required to register with the collector and also to make monthly reports showing production, withdrawals and stamps used. At present, 76 concerns are regis-

tered under this classification. It may be stated that brokers, exchanges, clearing houses and the like, dealing as such in securities or futures, are also required to register, but in this instance, such persons ordinarily serve as agents and are not taxpayers so that statistics as to the number of registrants can not be used to estimate the number of taxpayers involved.

Inequities. - In general, the stamp taxes are administered without any inequities.

Administrative difficulties. - Since these taxes are collected through means of adhesive stamps which are purchased by the taxpayer, affixed to the taxable instrument and canceled, the administration, from a procedural standpoint, is relatively simple. No assessments of taxes are necessary except in cases where taxpayers refuse to affix and cancel stamps. The work of the Bureau accordingly consists for the greater part of making rulings upon questions whether certain instruments, transactions, etc., come within the taxing provisions of the law. The making of such rulings does not, of course, require any involved procedure.

The cases, however, at times present difficult and perplexing questions. While the subjects to be taxed are rather clearly specified in the law, nevertheless, the statutory definitions must necessarily be and are expressed in broad terms so that on close questions it is difficult to tell where the "line" is to be drawn between taxable and nontaxable instruments. For these reasons, the administration of the stamp taxes has entailed considerable litigation. One of the issues which involved quite some dispute on the part of taxpayers, namely, the tax on the transfer of a right to receive stock, was settled by the United States Supreme Court in the case of Raybestos-Manhattan, Inc. v. United States, which was handed down only last November. The administration of the stamp taxes is further complicated by the fact that in many instances the Federal law must be construed in conjunction with the local State law. For example, the State law must be consulted to determine whether a certain instrument conveys an interest in land, or whether the transfer of stock from a guardian to his ward upon the latter's becoming of age is a taxable transfer of title, or whether a renewal tax is applicable under subdivision 1 of Schedule A where an individual assignee extends the original term of a corporate obligation, etc.

The foregoing difficulties are attributable more to inherent problems in the law rather than to faults in the language of the law. Hence, to a great extent, the difficulties have been and will continue to be overcome or mitigated through the precedents created as the cases arise and are determined. In other words, the solution can not be had by mere statutory amendments. In fact, amendments to the law must be made very cautiously so as not to destroy or lessen the value of the large body of precedents established by the past several years of administration.

The stamp taxes, particularly by reason of the simplicity of their administration, come within the class of taxes having a low administrative cost.

In view of the substantial revenue produced by these taxes at the present rates and also in view of the relative simplicity of their administration, the Bureau recommends that these stamp taxes be continued at the rates now in force.

TAX ON CERTAIN FIREARMS AND MACHINE GUNS

National Firearms Act, as amended.

Yield for fiscal year 1936 ----------	$5,341.72
Estimated yield for fiscal year 1937 ----	5,000.00
Number of taxpayers ----------	25

Statutory background and economic basis. - The National Firearms Act was enacted on June 26, 1934, as a measure to restrict the traffic in and regulate the possession of certain classes of weapons commonly used by gangsters and other law breakers. To that end, the Act imposes a transfer tax of $200.00 upon the transfer of any weapon coming within its provisions, subject to certain exceptions with respect to transfers to Governmental agencies, etc., and also imposes occupational taxes at rates varying from $200.00 to $500.00 a year upon persons engaged in manufacturing, importing or otherwise dealing in such weapons. In addition, the Act requires the registration of all persons having any of such weapons in their possession. The Act applies to machine guns of all types, whether automatic or semi-automatic and to "firearms" defined as a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive, if such weapon is capable of being concealed on the person, and including a muffler or silencer for any type or class of weapon. The Act was amended by Public No. 490, approved April 10, 1936, to exclude any rifle which would fall within the statutory definition of a firearm solely by reason of the length of its barrel, if the caliber of such rifle is .22 or smaller and if its barrel is 16 inches or more in length.

Administration. - The Bureau maintains complete records of registrations and transfers of firearms as required by the Act. All transfers, including exports and imports, are subject to approval by the Bureau. Other administrative work includes interpretative rulings, and matters pertaining to seizures of firearms and investigations of reported violations of the Act. The administration of the law requires frequent contact with the Department of Justice and occasionally with the War Department.

Since the Act is wholly regulatory in its purpose, the revenue derived thereunder has been nominal in amount.

The Bureau is now considering certain recommendations for the amendment of the National Firearms Act which may be submitted after appropriate conferences are had with representatives of the Department of Justice likewise interested in the administration of the Act.

TAX ON NARCOTICS

Harrison Narcotic Law,
as amended.

Yield for fiscal year 1936 ---------- $ 554,028.39
Estimated yield for fiscal year 1937 --- 550,000.00

Approximate number of taxpayers -- 218,600

Statutory background.- A tax on narcotics was first imposed by the Act of October 1, 1890, under which opium manufactured in the United States for smoking purposes was subjected to a tax of $10.00 a pound. That act was amended by the Act of March 3, 1897, to provide for certain penalties. The tax on opium made in the United States for smoking purposes was increased to $300.00 a pound by the Act of January 17, 1914. The last mentioned Act was succeeded by the Harrison Narcotic Act which was passed on December 17, 1914. The Harrison Narcotic Act is much broader in scope than the prior Acts. It imposes a stamp tax of 1 cent per ounce or fraction thereof upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, which tax is in addition to any import duty imposed upon such drugs. That Act also provides for a special or occupational tax which was imposed at the original rate of $1.00 per annum upon any person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes or gives away any of the taxable drugs. Provisions were made in the Act for the use of order forms with respect to sales of taxable drugs, keeping records, filing notices, returning inventories and posting bonds by persons engaged in the trade. The Act also provides various penalties with respect to unlawful possession and other violations of the Act. The Harrison Narcotic Act was first amended by sections 1006, 1007 and 1008 of the Revenue Act of 1918 which changed the classification and rate of the special or occupational tax as follows:

1. Importers, manufacturers, producers, or compounders, $24.00 per annum (Known as Class I registrants).

2. Wholesale dealers, $12.00 per annum (Known as Class II registrants).

3. Retail dealers, $6.00 per annum (Known as Class III registrants).

4. Physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer the drugs covered by the Act to patients, $3.00 per annum (Known as Class IV registrants).

Section 1007 of the Revenue Act of 1918 further amended the Harrison Narcotic Act by providing a special tax of $1.00 per annum with respect to persons dealing in certain preparations and remedies not included as taxable drugs under the Act. Such taxpayers, including dispensing physicians, are classed as manufacturers of and dealers in exempt preparations and known as Class V registrants.

The next amendment to the Harrison Narcotic Act was made by the Revenue Act of 1926. Section 703 of such Revenue Act reduced the rate of special tax in the case of Class IV registrants from $3.00 to $1.00 per annum. Section 705 of such Revenue Act authorized the Secretary of the Treasury to deliver for medical or scientific purposes to any department, bureau or other agency of the United States Government drugs seized and confiscated or forfeited under the narcotic laws.

The next amendment was made by the Act of January 22, 1927, which authorized the President to "issue such Executive order as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the aforesaid drugs, to obtain said drugs from persons registered under this act within the continental United States for legitimate medical purposes, without regard to the order forms described in this section."

The Act of March 3, 1927, while not amending the taxing provisions of the narcotic laws, related to the administration thereof. This Act created the Bureau of Prohibition in the Treasury Department and conferred upon the Commissioner of Prohibition substantially all the rights, privileges, powers and duties with respect to the administration of the narcotic laws, other than the collection of tax, which were originally vested in the Commissioner of Internal Revenue.

The next amendment to the tax provisions was made by section 432 of the Revenue Act of 1928 which reduced the special tax with respect to retail dealers (Class III registrants) from $6.00 to $3.00 per annum.

The administration of the narcotic laws was again changed by the Act of June 14, 1930, which created a separate Bureau of Narcotics and since then the administration of the law has been carried out by that Bureau, except as to certain duties with respect to collection, adjustment of taxes and tax compromises which are still vested in the Bureau of Internal Revenue.

A new and additional class of special taxpayers, known as Class VI registrants, was created by section 806 of the Revenue Act of 1936 under which a special tax of $1.00 per annum is imposed upon persons not registered as an importer, manufacturer, producer or compounder and lawfully entitled to obtain and use in a laboratory any of the taxable drugs for the purpose of research, instruction or analysis.

Economic basis. - The tax on narcotics is essentially regulatory in purpose and effect. However, narcotics are so extensively used in the field of medicine that the tax, even though regulatory, yields quite a substantial revenue as compared with other regulatory measures. Thus, the tax affects more than 200,000 taxpayers and produces an annual revenue of more than one-half million dollars.

Administration. - The administration of the narcotic laws from the standpoint of their enforcement rests for the most part in the Bureau of Narcotics. The Bureau of Internal Revenue is concerned mainly with the collection of taxes, adjustments by way of claims, etc., and compromises of tax liability.

From the standpoint of the tax collection, it would seem that a minor amendment should be made to the special tax upon Class VI registrants as imposed under section 806 of the Revenue Act of 1936. In that section, the tax is fixed at "$1 per annum", instead of "$1 per annum or fraction thereof" as in the case of the other classes. By the omission of the phrase "or fraction thereof", it is necessary to proportion the special tax in this class of taxpayers when the liability begins in any other month than July. Aside from such amendment, the Bureau has no other recommendation to make.

TAX ON ADULTERATED BUTTER

Act of May 9, 1902.

Yield for fiscal year 1936 ---------- $4,664.11
Estimated yield for fiscal year 1937 ----- 5,000.00
Number of taxpayers ---------- 1

Statutory background and economic basis. - The tax on adulterated butter is imposed under the Act of May 9, 1902, at the rate of 10 cents a pound. The Act also levies special or occupational taxes at the rate of (a) $600.00 a year with respect to manufacturers of such product, (b) $480.00 a year with respect to wholesale dealers, and (c) $48.00 a year with respect to retail dealers. The administrative provisions of the oleomargarine statutes relative to labeling, packing, records, returns, etc., apply to the tax on adulterated butter. The taxable product is defined in the law as a grade of butter produced by mixing, reworking, recharning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter, with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream. The regulations as originally promulgated provided among other things that any butter which was found to contain 16 percent or more of moisture should be classed as adulterated butter. This percentage was fixed owing to the fact that normal butter of accepted standards had a moisture content of less than 16 percent. Following this regulation many assessments and collections of taxes were made against manufacturers of butter found upon official analysis to contain 16 percent or more of moisture. The Supreme Court in the case of Lynch vs. Tilden Produce Company, decided under date of May 26, 1924, held that the law did not prescribe any standard of moisture for butter and that where butter contains an excess amount of moisture, it must be shown that some process or material was used to cause the absorption of the excess moisture to render the product taxable as adulterated butter. The regulations were amended accordingly and it is now necessary to show in such case that the excess moisture resulted from a process or material used. Adulterated butter is now produced by only one registered manufacturer, and as he exports his entire output free of tax, no commodity tax is derived therefrom. The statute is purely regulatory in purpose and hence the revenue derived thereunder is nominal in amount.

Administration.- The administrative work consists of examination of reports from the manufacturer and the reviewing and passing on reports of field investigations. Samples of product taken by field officers are examined in the Department's laboratory and when it is disclosed that the product is adulterated butter, assessment of tax is made. Almost invariably the person so assessed discontinues the manufacture of the taxable product.

The Bureau makes no recommendation with respect to this tax.

TAX ON PROCESS OR RENOVATED BUTTER

Act of May 9, 1902.

Yield for fiscal year 1936	$ 5,973.51
Estimated yield for fiscal year 1937	6,000.00
Number of taxpayers	5

Statutory background and economic basis. - The tax on process or renovated butter is imposed under the Act of May 9, 1902, at the rate of ¼ cent a pound. The Act also levies a special or occupational tax at the rate of $50.00 a year upon manufacturers of such product. No tax is levied with respect to wholesale or retail dealers. Process or renovated is defined as butter which has been subjected to any process by which it is melted, clarified or refined. The regulations issued under authority of the Act prescribe the manner of packing the product and of branding and stamping the packages. In addition the regulations require manufacturers to keep records and make returns as to production, disposition, etc. Wholesale dealers while not subjected to an occupational tax are also required to make reports of their transactions. Factories, storehouses, etc., are subject to inspection in accordance with the Federal Food and Drugs Act. During the fiscal year 1936, there were 5 registered manufacturers of the taxable product who reported a total production of 2,252,920 pounds.

The statute is purely regulatory and accordingly yields but little revenue. While the tax at the rate of ¼ cent a pound seems too small to have any appreciable regulatory effect, nevertheless, the requirements of the regulations as to labeling, etc., are calculated to prevent the sale of the product as pure butter.

Administration. - The statute is administered in conjunction with the Department of Agriculture. The work of the Bureau includes auditing returns of manufacturers and wholesalers, making investigations of suspected violations and assessing and collecting the tax when violations are uncovered.

The Bureau makes no recommendation with respect to this tax.

TAX ON MIXED FLOUR

Act of June 13, 1898.

Yield for fiscal year 1936	$ 5,582.59
Estimated yield for fiscal year 1937	5,500.00
Number of taxpayers	25

Statutory background and economic basis. - The tax on mixed flour is imposed under the Act of June 13, 1898, at the rates of 4 cents a barrel or other package containing 196 pounds or more, 2 cents on half barrels, 1 cent on quarter barrels, and ½ cent on one-eighth barrels. The Act also imposes an occupational tax of $12.00 per year upon every person, firm or corporation engaged in making, packing, or repacking mixed flour. The taxable product was defined originally as the food product resulting from the grinding or mixing together of wheat, or wheat flour, as the principal constituent in quantity, with any other grain, or the product of any other grain, or other material, except such material, not exceeding 5 per centum in quantity, and not the product of any grain, as is commonly used for baking purposes. The following proviso was added by the Act of March 2, 1901: "Provided, That when the product resulting from the grinding or mixing together of wheat or wheat flour with any other grain, or the product of any other grain, of which wheat or wheat flour is not the principal constituent as specified in the foregoing definition, is intended for sale, or is sold, or offered for sale as wheat flour, such product shall be held to be mixed flour within the meaning of this Act." The definition was further amended by the Act of April 12, 1902, by omitting the words "not exceeding 5 per centum in quantity" after the words "except such material". Mixed flour makers, packers and repackers are required by the law and regulations to make monthly returns of production and stamp tax payments. According to the Bureau records, 26 makers, packers and repackers of mixed flour were engaged in business during the fiscal year 1936 and produced 19,542,143 pounds of the taxable product.

The tax is strictly regulatory. The law was enacted following complaints that cheaper flours or other materials having no food value were being mixed with wheat flour and the mixture sold to the public as strictly wheat flour. While the law has yielded but little revenue, it has contributed appreciably to the present day purity of wheat flour.

Administration. - The work of the Bureau includes auditing returns of mixed flour makers, packers and repackers, maintaining complete records of registration and production, and making investigations of suspected violations.

The Bureau makes no recommendation with respect to this tax.

TAX ON FILLED CHEESE

Act of June 6, 1896.

Yield for fiscal year 1936 ---------- $104.17
Estimated yield for fiscal year 1937 --- 500.00
Number of taxpayers (None registered)

Statutory background and economic basis. - The Act of June 6, 1896, imposes a stamp tax at the rate of 1 cent a pound on filled cheese and special or occupational taxes applicable to that product as follows:

Manufacturers ----------	$400.00 a year
Wholesale dealers ----------	250.00 a year
Retail dealers ----------	12.00 a year

Filled cheese is defined as all substances made of milk or skimmed milk with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. The Act prescribes the kind of packages to be used, the branding of the product, and also the filing of bonds and keeping of records, and rendering returns by persons engaged in the business of manufacturing filled cheese. There have been no amendments to the Act.

The tax is wholly regulatory and obviously is intended to prevent fraudulent sales of "filled" cheese as pure cheese. The revenue produced under the Act has been purely nominal. There are at present no registered manufacturers or dealers in filled cheese. During the more recent years, there has been a great increase in the manufacture of so-called "spreads" which contain cheese, but in a great majority of such products it has been found that the "spread" does not fall within the statutory definition of filled cheese.

Administration. - The administration of the Act includes field investigations in cases of suspected products with the attendant assertion of liability when a product is found to be "filled cheese". In such cases, the manufacture of the product is invariably discontinued or the formula changed, so as to avoid further liability.

The Bureau mak s no recommendation with respect to this tax.

TAX ON OLEOMARGARINE

Act of August 2, 1886,
as amended.

Yield for fiscal year 1936 ---------- $2,203,804.01
Estimated yield for fiscal year 1937 -------- 2,200,000.00

Number of taxpayers:

Manufacturers of oleomargarine ----------	42
Wholesale dealers, colored oleomargarine ----	5
Wholesale dealers, uncolored oleomargarine --	1,340
Retail dealers, colored oleomargarine -------	75
Retail dealers, uncolored oleomargarine -----	160,565

Statutory background. - Oleomargarine taxes were first imposed under the Act of August 2, 1886. That Act provided for a stamp tax of 2 cents a pound on domestic product, a stamp tax of 15 cents a pound on imported product and special or occupational taxes at the rates of $600.00 a year upon manufacturers, $480.00 a year upon wholesale dealers and $48.00 a year upon retail dealers. That Act also provided that manufacturers of oleomargarine keep records and make returns of their transactions. The law was amended by the Act of October 1, 1890, which provided for the keeping of records and making of returns by wholesale dealers in oleomargarine. The first distinction between colored and uncolored oleomargarine was made in the Act of May 9, 1902, under which the rate of tax on domestic product was changed to 10 cents a pound in the case of oleomargarine artificially colored to look like butter and ¼ cent a pound on uncolored product. That Act also reduced the special tax in the case of wholesalers dealing only in uncolored product to $200.00 a year and retailers dealing only in uncolored product to $6.00 a year.

Other amendments were subsequently made from time to time. The law was amended by the Act of October 1, 1918, so as to allow manufacturers to pack oleomargarine in paper packages. Oleomargarine was redefined by the Act of July 10, 1930, to include any product churned, emulsified, or mixed in cream, milk, water or other liquid, and containing moisture in excess of 1 percent or common salt. In addition, certain exceptions were provided with respect to puff-pastry shortening, salad dressings, etc. The Act of March 4, 1931, enlarged the scope of the higher tax on domestic product by providing that the rate of 10 cents a pound shall apply to all oleomargarine which within certain specified degrees is yellow in color, regardless of whether or not artifically colored. The last amendment was made by the Act of February 24, 1933, under which permission was granted to pack oleomargarine in tin containers.

Economic basis. - The oleomargarine taxes, although excises in nature, are regulatory in purpose. They were designed as a check upon the former fraudulent practice of distributing oleomargarine to the public as butter. In that respect, the statute appears to have achieved

its purpose since such fraudulent practice has been very substantially overcome. Oleomargarine, however, is nevertheless a recognized food product and its manufacture is an established industry. Due to the higher tax rates imposed upon the colored product, the trade is confined mainly to uncolored oleomargarine. The returns as made to the Bureau disclose a total production of 368,964,422 pounds of uncolored oleomargarine as compared with 2,773,194 pounds of colored product during the fiscal year 1936.

Inequities. - There appears to be no conflict with respect to the subjects taxed under the oleomargarine laws. The taxes being regulatory necessarily affect the trade and industry. However, the rate of tax on uncolored product is so low, being only ¼ cent a pound, that it can not be regarded as retarding or otherwise adversely affecting the industry. The tax on the colored product is purposely high, or 10 cents a pound so as to discourage fraudulent sales of such product to the public as butter.

Administration. - On the whole, the relations of the Government with oleomargarine manufacturers and dealers have been very satisfactory, the taxpayers giving full cooperation. The law provides that any person who sells, vends, or furnishes oleomargarine for the use or consumption of others, except to his own family table without compensation, or who shall add to or mix with such oleomargarine any substance which causes such oleomargarine to be yellow in color, shall be held to be a manufacturer subject to the provisions of the Act. Many cases occur, mostly through ignorance of the law, where boarding house keepers, lunch room proprietors, and heads of schools and other institutions color oleomargarine for table use, thus incurring liability under the provisions of the law. Such cases are usually closed by the acceptance of a small offer in compromise. The more serious cases of violations occur when persons although aware of the provisions of the law, procure large quantities of uncolored oleomargarine and color it for retail sales as butter. The administrative work in the Bureau consists of reviewing reports of manufacturers and wholesale dealers, checking names and addresses of consignees with the Bureau record of taxpayers, making requests for investigations to require tax payments, the compilation of reports showing ingredients used in manufacture of oleomargarine and amount of product, reviewing reports of suspected violations, reviewing recommendations for assessments, consideration of offers in compromise, having analyses made of samples of product submitted, examining cartons and wrappers for approval, making rulings as to application of taxes and interpretation of regulations, examination and adjustment of claims, etc.

The Bureau has no recommendation to make in connection with these taxes.

MISCELLANEOUS REGULATORY TAXES STILL IN EFFECT BUT YIELDING NO REVENUE.

White phosphorous matches. - The Act of April 9, 1912, imposed a tax of 2 cents per 100 on the manufacture of white phosphorous matches, white phosphorous being described as "the common poisonous white or yellow phosphorous used in the manufacture of matches". The law provided for the registration of every manufacturer of such matches and the packing and branding thereof. It also provided that on and after January 1, 1913, white phosphorous matches manufactured wholly or in part in any foreign country should not be entitled to entry in any port of the United States. The law further made it unlawful to export any white phosphorous matches from the United States after January 1, 1914. There are no manufacturers of white phosphorous matches at the present time. No tax has been collected under the Act for many years. This Act was imposed owing to the deleterious effects of white phosphorous. In match manufacturing it jeopardized human health and life, causing necrosis or "phossy jaw", a disease attended with suffering and disfigurement. It also afforded a ready means to persons intent upon suicide, and was a constant menace to children in the home. In 1898, a compound known as "phosphorous sesquisulphide", which eliminated the poisonous elements in match making, was patented by the French Government. The use of this process in the United States was long controlled by the Diamond Match Company, which later took the patriotic action of surrendering its letters patent to the United States Government, thus opening the way for all match manufacturers in this country to use the process without the payment of royalties. An international treaty prohibiting the use of poisonous phosphorous in the manufacture of matches was entered into at Berne, Switzerland, in 1906, and later was signed by virtually all European powers. This treaty, followed six years later by the white phosphorous match act in this country, has virtually wiped out of existence the poisonous match.

The Bureau makes no recommendation with respect to this tax.

Cotton futures. - The United States Cotton Futures Act approved August 11, 1916, levies a tax of 2 cents for each pound of cotton involved in each contract of sale of any cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business. The Act provides that such tax shall not be levied with respect to such contracts if they comply with certain conditions which are prescribed. The Act is intended to compel requirement with such prescribed conditions, and it has achieved the purpose, as no tax has been collected thereunder.

The Bureau makes no recommendation with respect to this tax.

Notes used for circulation. - Sections 19 and 20 of the Act of February 8, 1875, (18 Stat. 311) impose taxes as follows:

Section 19. "That every person, firm, association other than national bank associations, and every corporation, State bank, or State banking

association, shall pay a tax of ten per centum on the amount of their own notes used for circulation and paid out by them."

Section 20, "That every such person, firm, association, corporation, State bank or State banking association, and also every national banking association, shall pay a like tax of ten per centum on the amount of notes of any person, firm, association other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them."

The main object of the Federal legislation on this subject was to secure for the national currency the exclusive use in the United States as a circulating medium; and this object was sought to be effected by imposing upon all competitive money such a tax as would make its issue unprofitable. (21 Op. Atty. Gen. 560.) These laws have accomplished the desired purpose and no tax has been collected thereunder in recent years.

The Bureau makes no recommendation with respect to these taxes.