

SUPPLEMENT  
TO  
WEEKLY TREASURY DECISIONS OF FEBRUARY 12, 1914  
(T. D. 1944)

Regulations No. 33 : : : : United States Internal Revenue

LAW AND REGULATIONS  
RELATIVE TO  
THE TAX ON INCOME OF INDIVIDUALS,  
CORPORATIONS, JOINT STOCK COM-  
PANIES, ASSOCIATIONS, AND  
INSURANCE COMPANIES

IMPOSED BY SECTION 2  
ACT OF OCTOBER 3, 1913

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January 5, 1914



WASHINGTON  
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1914

## PREFACE.

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The accompanying regulations embrace the various administrative features of the law (sec. 2, act of Oct. 3, 1913) imposing a tax on incomes. They contain instructions relative to the preparation of returns, etc., and are designed to assist both the taxpayer and the officers charged with its enforcement in complying with the requirements of this law.

Liberal construction of the law has been given that those charged with withholding the tax at the source may not do so unnecessarily. Withholding agents may forward evidences of non-liability to payment, when such evidences are received by them, to collector for the district in lieu of the tax. This will relieve them of the necessity of withholding such tax.

The regulations are arranged according to general subjects, as follows:

Part 1. Individual income returns and collections.

Part 2. Collections at the source.

A. Bonds, mortgages, deeds of trust, etc.

B. Bonds, mortgages, deeds of trust, etc., by first bank or collection agency where certificates of owners are not filed.

C. Bonds, mortgages, dividends, etc., of foreign corporations.

D. Salaries, wages, rent, etc.

E. Fiduciaries.

Part 3. Relative to corporations, joint stock companies or associations, and insurance companies.

Part 4. Assessment and collection.

All forms of certificates herein provided shall be 8 inches wide and 3½ inches from top to bottom, and printed on paper of substantial weight and texture.

# REGULATIONS.

Regulations concerning the tax imposed by Section 2, Act of October 3, 1913, on net income of Individuals, Corporations, Joint-stock Companies, Associations, and Insurance Companies.

TREASURY DEPARTMENT.  
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,  
*Washington, D. C., January 5, 1914.*

## PART 1.

### INDIVIDUAL INCOME RETURNS AND COLLECTIONS.

**Article 1.** Section 2 of the above-named act imposes a <sup>Persons tax-</sup> <sup>ble.</sup> tax of 1 per centum (designated as the normal tax) on net incomes arising or accruing from **all sources** during the preceding calendar year to—

(a) Every citizen of the United States, whether residing at home or abroad; and

(b) Every person residing in the United States, though not a citizen thereof; and

(c) From all property owned and from every business, trade, or profession carried on in the United States, by a person residing elsewhere.

**Art. 2.** Said section also imposes an additional tax on <sup>Additional or</sup> <sup>super tax.</sup> all net incomes of individuals exceeding \$20,000, as follows:

- 1 per cent on incomes exceeding \$20,000 and not exceeding \$50,000.
- 2 per cent on incomes exceeding \$50,000 and not exceeding \$75,000.
- 3 per cent on incomes exceeding \$75,000 and not exceeding \$100,000.
- 4 per cent on incomes exceeding \$100,000 and not exceeding \$250,000.
- 5 per cent on incomes exceeding \$250,000 and not exceeding \$500,000.
- 6 per cent on incomes exceeding \$500,000.

**Art. 3.** The **NET INCOME** shall consist of the total <sup>Net income de-</sup> <sup>fin.</sup> gains, profits, and income derived from all sources (desig-

nated as gross income) less deductions numbered first to sixth, inclusive, specifically enumerated in paragraph B of the act. (See article 6.)

Normal tax;  
upon what com-  
puted.

In computing the taxable income for the purposes of the *normal tax* there shall be deducted from the net income as above ascertained:

(a) The amount included in the gross income received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income;

(b) The amount of income the tax upon which has been paid or withheld for payment at the source; and

(c) The specific exemption of \$3,000 or \$4,000, as the case may be, except in the case of nonresident aliens.

Gross income.  
What it includes.

**Art. 4. Gross income** includes all gains, profits, and income derived from—

(a) Salaries, wages, or compensation for personal service of whatever kind and in whatever form paid.

(b) Professions, vocations, business (including income from copartnerships), trade, commerce, or sales or dealings in property, growing out of the ownership or use of or interest in, real or personal property.

(c) Interest, rent, dividends, securities, or transaction of any lawful business carried on for gain or profit. (See art. 67 as to interest on deposits and certificates of deposit.)

(d) Gains or profits and income derived from any source whatever, including the *income* from, but not the value of, property acquired by gift, bequest, devise or descent.

The foregoing is held to include all income, gains, and profits arising or accruing from all sources whatever in the calendar year for which the return is made, except as hereinafter specifically stated.

Income exempt  
from taxation.

**Art. 5.** The following items should not be included as gross income:

(a) *Value* of property acquired by gift, bequest, devise, or descent during the year.

(b) Proceeds of life insurance policies paid upon the death of the person insured to beneficiaries, or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, but this shall not be construed to

mean that interest payments to beneficiaries from insurance companies shall not be included as income.

(c) Income derived from interest upon the obligations of a State or any political subdivision thereof and upon the obligations of the United States or its possessions;

(d) The compensation of the President of the United States in office at the time of the passage of the act of October 3, 1913, during the term for which he was elected, and the judges of the Supreme and inferior courts of the United States in office at the time of the passage of the act of October 3, 1913;

(e) The compensation of all officers and employees of a State or any political subdivision thereof, including public-school teachers, etc. When such State officers or employees are compensated by the United States, they must include such income as taxable.

**Art. 6.** *Deductions and exemptions allowed in computing taxable income for the purposes of the normal tax.*

Under *paragraph B* the following items are to be deducted from the **gross income**:

Deductions allowed under paragraph B.

1. The amount of necessary expenses actually paid for carrying on business, but not including business expenses of partnerships and not including personal, living, or family expenses.

2. All interest paid within the year on personal indebtedness of the taxpayer incurred in the conduct of business.

3. All National, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits).

4. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.

5. Debts due to the taxpayer which have been actually ascertained to be worthless and charged off within the year.

6. Amount representing a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made, *but not including the expense of restoring property or making good the exhaustion thereof, for which an allowance is or has been made*, nor for any amount paid for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate.

"Gross value at the mine" defined.

The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the bona fide market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some other place than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

7. The amount included in gross income received as dividends upon the stock, or upon the net earnings, of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income.

8. The amount of income, the normal tax upon which has been paid or withheld for payment at the source of income.

Gifts or donations made during the year not to be deducted.

None of the above items of deduction shall include money or other items of value disposed of by gift, donation, or endowment.

Exemptions allowed under paragraph C.

Under *paragraph C* the personal exemption of \$3,000 or \$4,000, as the case may be, is to be deducted from the net income except in the cases of nonresident aliens. (See arts. 7, 9, and 10.)

Tax computed on the calendar year except for 1913.

**Art. 7.** The act provides that the said normal tax shall be computed on the remainder of said net income accruing during each preceding calendar year, and that for the year ended December 31, 1913, said tax shall be computed on the net income accruing from March 1 to December 31, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions authorized. A specific exemption, therefore, of \$2,500 or \$3,333.33, as the case may be, will be allowed for the year 1913.

Income of non-resident aliens subject to the normal tax.

**Art. 8.** The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains, profits, and income derived from all property owned, and from every business, trade, or profession carried on and capital invested within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see Art. 6), in so far as said deductions relate to said gains, profits, etc.

Exemption under paragraph C not allowed in computing taxable incomes of nonresident aliens.

The specific exemption in paragraph C of the act can not be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident aliens subject to additional or surtax.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on or capital invested shall make full and complete return of said income and shall pay the tax as provided herein.

**Art. 9.** Under paragraph C, every single person and every married person not living with husband or wife in the sense below defined, who has a net income exceeding \$3,000 per annum, is liable to pay the normal tax under this law, but in making return for such tax such person may claim an exemption of \$3,000 from his or her total net income.

Specific exemption allowed to single person or married persons living apart.

**Art. 10.** Husband and wife living together are entitled to an exemption of \$4,000 only from the aggregate net income of both, which may be deducted in making the return of such income for taxation. However, when the husband and wife are separated and living permanently apart from each other each shall be entitled to an exemption of \$3,000.

Specific exemption allowed with respect to aggregate income of husband and wife.

If the husband and wife not living apart have separate estates, the income from both may be made on one return, but the amount of income of each, and the full name and address of both, must be shown in such return.

If husband and wife have separate estates one return may be made showing income of each.

The husband, as the head and legal representative of the household and general custodian of its income, should make and render the return of the aggregate income of himself and wife, and for the purpose of levying the income tax it is assumed that he can ascertain the total amount of said income.

If a wife has a separate estate managed by herself as her own separate property and receives an income of \$3,000 or over, she may make return of her own income, and if the husband has other net income, making the aggregate of both incomes more than \$4,000, the wife's return should be attached to the return of her husband, or his income should be included in her return, in order that a deduction of \$4,000 may be made from the aggregate of both incomes. The tax in such case, however, will be imposed only upon so much of the aggregate income of both as shall exceed \$4,000.

Wife's return of separate estate to be attached to husband's return or husband's income may be included in wife's return.

If either husband or wife separately has an income equal to or in excess of \$3,000, a return of annual net income is required under the law, and such return must include the income of both, and in such case the return

Return required if either husband or wife has an income of \$3,000 or over.

must be made even though the combined income of both be less than \$4,000.

Return required if aggregate income of husband and wife is in excess of \$4,000, although neither may have an income of \$3,000 or over.

If the aggregate net income of both exceeds \$4,000, an annual return of their combined incomes must be made in the manner stated, although neither one separately may have an income of \$3,000 per annum. They are jointly and separately liable for such return and for the payment of the tax.

When status is to be determined.

The single or married status of the person claiming the specific exemption shall be determined as of the time of claiming such exemption if such claim be made within the year for which return is made, otherwise the status at the close of the year.

Interest in partnership profit; how reported.

**Art. 11.** His or her prorata share of the net profits derived from a partnership business, whether or not divided and paid out shall be included in the personal return of each partner.

Partnerships as such, not liable to tax, but statement may be required.

**Art. 12.** Partnerships, as such, are not subject to the income tax, and are only required to make return when requested to do so by the Commissioner of Internal Revenue or the collector of internal revenue for the district in which said partnership has its principal place of business; and when a return is required it shall give a complete and correct statement of the gross income of the said partnership and also a complete statement of the actual expenses of conducting the business of said partnership, and the net profits and the name and address of each member of said partnership, and their respective interest in the net profit thus reported.

Partnership profits to be included in returns made by individual partners.

**Art. 13.** The net annual profits of a partnership when divided and paid to the members thereof shall be included by each individual partner receiving same in his annual return of net income, and the tax shall be paid thereon as required by law. When the annual profits of a partnership are not distributed and paid to the members thereof the respective interest of each member in said profits shall be ascertained, and the individuals entitled thereto shall include the said amount in their annual return as a part of their gross income, the same as if said profits had been distributed and paid to them.

Individual partnership profits.

**Art. 14.** Undivided annual net profits of partnerships thus returned by the individual members thereof, and tax paid thereon, shall not, when said profits are actually distributed and paid to such members, be again included in their annual return as a part of their gross income.



Partnerships owning interest coupons or registered interest orders may claim deduction for legitimate expenses incurred in business by filing the proper certificate with the withholding agent. (See article 47.)

Partnerships, as such, may file certificate claiming deduction.

## RETURNS.

**Art. 15.** Each person of lawful age whose net income is \$3,000 or over shall, on or before the 1st day of March, 1914, and on or before the 1st day of March each year thereafter, file an accurate return of income under oath or affirmation, except as herein provided. (See article 8.)

When returns of annual net income of \$3,000 or over are to be made.

If the person making the return of income has his place of business in the collection district in which he resides, the return shall be filed with the collector of that district. If his principal place of business is elsewhere, the return shall be filed in the district in which that business is located.

Where filed.

In the case of an individual residing in a foreign country return shall be made to the collector of internal revenue for the district where his principal business is carried on within the United States.

**Art. 16.** The required return will be made on Form 1040 in accordance with the instructions printed thereon, and will specifically set forth—

Form of return.

1. All income received from each specific source and the total thereof.

2. All the separate items of deduction claimed under paragraph B of this law.

3. The amount of specific exemption claimed under paragraph C.

4. All amounts of income upon which tax has been withheld at source by withholding agent or agents.

**Art. 17.** When by reason of minority, insanity, absence, sickness, or other disability, the individual is unable to make his own return, the same shall be made by his guardian or duly authorized agent.

When return will be made by guardian or duly authorized agent.

In the case of the death of a person whose net income for the part of the year during which he lived was \$3,000 or over, return of net income shall be made by the executor or administrator of the estate of the deceased, and in computing the taxable income of such estate there shall be allowed the specific exemption provided by law.

Executor or administrator to make return in case of death.

**Art. 18.** When the required return has not been made by a person acting as guardian, agent of a nonresident alien, or by one acting in any other capacity in which

Notice of failure to file return to be served on guardian or agent.

the law makes it a duty for him to represent the individual, notice of failure to make such return will be served upon such guardian or agent.

The person upon whom such notice is served may, however, when the facts warrant, file evidence with the collector showing that the individual for whom he acts did not receive an income subject to tax during the year, or that the said guardian or agent had filed the return with some other collector.

Evidence may be filed showing nonliability to make return. **Art. 19.** Any individual whose net income is less than \$20,000, for whom full return has been made by others as withholding agents, shall not be required to make a return.

Returns not required of persons for whom full returns have been made by others. **Art. 20.** If any person liable to pay an income tax for himself or others shall fail to make and deliver the return required by law, but shall consent to disclose the particulars of any business or occupation liable to pay such tax, it shall be the duty of the collector or deputy collector to make such list or return, which being distinctly read and consented to, signed, and verified by oath or affirmation by the person liable to make such return, the same may be received as the list or return of such person.

Returns to be prepared by collector in certain cases. **Art. 21.** In case any person liable to make return shall neglect or refuse to make or render a list or return, or shall render a willfully false or fraudulent return, it shall be the duty of the collector, after due notice has been given, to make such list, according to the best information he can obtain by the examination of such person, or any other evidence.<sup>1</sup>

Refusal or neglect to make return. **Art. 22.** When duly certified by the collector, the said list thus prepared shall be the return of said person and the tax so ascertained to be due, together with the 50 per cent or 100 per cent penalty incurred, shall be assessed and collected.

Penalty for failure to make return or for making false return. **Art. 23.** The annual return must be verified by oath or affirmation of the person making the same. Collectors are directed by law to require every return to be so verified by the person rendering it. The affidavit may be made before the collector for the district or before any officer authorized by law to administer oaths.

<sup>1</sup> For method of procedure in such cases, see sects. 3173 and 3176, Rev. Stat., and also Form 1045, the form of notice to be given in such cases.

**Art. 23.** When the return is not filed within the required time by reason of sickness or absence of the individual, an extension of time, not exceeding 30 days from March 1, within which to file such return may be granted by the collector, provided a written application therefor is made by the individual within the period for which such extension is desired.

Extension of time to file return may be granted.

**Art. 24.** The annual returns will be forwarded by collectors by registered mail to the Commissioner of Internal Revenue with the list for the month in which the returns are filed. Collectors must provide that said returns and all forms relating thereto are securely sealed in envelopes or packages before forwarding the same.

Returns to be forwarded to Commissioner of Internal Revenue by registered mail.

**Art. 25.** All assessments shall be made by the Commissioner of Internal Revenue, and all persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 30th day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained, as provided by the law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment.

Assessments; notification of; when to be paid.

To any sum or sums due and unpaid after the 30th day of June in any year, and for 10 days after notice and demand thereof by the collector, there shall be added the sum of 5 per cent on the amount of tax unpaid, and interest at the rate of 1 per cent per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

Penalty for failure to pay tax.

**Art. 26.** If any person, corporation, joint-stock company, association, or insurance company liable to make returns or pay tax shall refuse or neglect to make returns at the time or times specified in each year, such person shall be liable to a penalty of not less than \$20 nor more than \$1,000.

Penalties for failure to make returns.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with

Penalties for making false or fraudulent returns.

intent to defeat or evade the assessment required by law to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

**Art. 27.** Nothing in the law or these regulations shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after the act of October 3, 1913, took effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

**Art. 28.** For regulations relative to the claiming of exemptions and deductions on income, the tax on which is to be deducted and withheld at the source, see article 33.

## PART 2.

### COLLECTIONS AT THE SOURCE.

**Art. 29.** The deductions and payment of the tax at the source of income applies only to the normal tax imposed upon individuals and shall not be construed to require any of such tax to be withheld prior to the 1st day of November, 1913.

Collections at source applies only to the normal tax imposed upon individuals. Collection at source not operative until Nov. 1, 1913.

**Art. 30.** Paragraph E of section 2 of the act provides that—

Persons, firms, etc., required to withhold tax at the source.

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax.

**Art. 31.** All persons, firms, etc., mentioned in the above-quoted paragraph are referred to in these regulations as “debtors” or “withholding agents,” and the word “source” is to apply to the place where the income originated and is payable.

Withholding agents.

**Art. 32.** The income from which the normal tax of 1 per cent is to be withheld by withholding agents includes all items of income exceeding in the aggregate \$3,000 and payable to any one person during the year, except:

Income as to which tax is to be withheld.

(a) Dividends on capital stock or from the net earnings of corporations and joint-stock companies or associations and insurance companies subject to like tax.

(b) Income of an individual which is not fixed or certain and not payable at stated periods, or is indefinite or irregular as to amount or time of accrual, shall not be withheld at the source, but *shall be listed in the annual return of the individual*, and the tax shall be paid thereon by him.

Incomes derived from the following professions and vocations come under this head: Agents compensated on the commission basis, lawyers, doctors, authors, inventors, and other professional persons whose income is irregular and indefinite.

Special fees and annual retainers.

Such persons shall make personal return of all their income, provided their total net income from all sources is \$3,000 or over. For example: When a lawyer receives a retainer of \$5,000 as a special fee, a deduction therefrom shall not be made by the payer; but when a lawyer receives a retainer of \$5,000 per annum, and the exemption claimed is \$3,000, \$2,000 of such income would be taxed and the tax retained at the source; or if his exemption claimed should be \$4,000, \$1,000 of such income would be taxed and the tax thereon withheld at the source.

(c) Items listed in article 5, which are wholly exempt from tax.

Exemptions under paragraph C. Certificate to be filed with withholding agent.

**Art. 33.** (a) In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, such person shall *not* receive the benefit of the deduction and exemption allowed in paragraph C (see arts. 9 and 10) except by an application to the collector for refund of the tax *unless* he shall, *not less than 30 days prior to the day on which the return of his income is due*, file with the person who is required to withhold and pay tax for him, a certificate claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption. If any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of \$300.

Penalty for making false representations to obtain exemption.

Deductions under paragraph B. Form 1008 to be filed with withholding agent or collector.

(b) Nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B (see art. 6, 1 to 6) unless he shall, not less than 30 days prior to the day on which the return of his income is due, either file with the person who is re-

quired to withhold and pay tax for him a true and correct return (on Form 1008) of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax and the debtor or withholding agent will only withhold the tax on the payments made in excess of the deductions claimed on said form. Or such person may likewise make application for deductions to the collector of the district in which return is made or to be made for him.

If such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath on certificate (Form 1009) under the penalties of this act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete.

(e) When, however, claims for exemption and deductions as above described are not filed within the prescribed time, the tax collected in excess can be remitted only on presentation of a claim for refund under the provisions of section 3220, Revised Statutes, said claims to be made either by the withholding agent against whom the assessment was made, or by the person on account of whom such taxes were withheld.

Claims for abatement of taxes erroneously assessed, or which are excessive in amount, may, prior to collection thereof, be filed under the provisions of said section 3220, Revised Statutes, either by the withholding agent against whom the assessment was made, or by the persons on account of whom such taxes were withheld.

In the monthly list returns as now prescribed a space is provided to show the amount of taxes which the withholding agent may remit to the collector when such returns are filed. The withholding agents will not, however, forward to the collector amounts withheld by him until notices of assessment are received from the collector.

Claims for *exemption* and *deductions* may be filed with the withholding agent and claims for *deductions* may be

Certificate filed on behalf of minors or insane persons.

Claims for refund.

Claims for abatement.

Taxes withheld not to be forwarded to collector until notices of assessment have been received.

filed with the collector, *not later than 30 days prior to March 1.*

Withholding agents to be furnished statement of deductions claimed through collector.

In cases where claims for deductions are filed with the collector within the time prescribed, the collector will immediately furnish the withholding agent (whose name and address must be shown on Form 1008) with a statement of the amount of deductions claimed, and said withholding agent shall not withhold and pay the normal tax to the extent of the deductions claimed as per said list.

Withholding agents should not file their annual returns until after the expiration of the time allowed persons to file claims for exemptions and deductions and if claims for deductions are filed with the collector in the required time, yet not in sufficient time to have the adjustment made by the withholding agent, the collector will make the adjustment on the withholding agent's return and in reporting such withholding agent for assessment will make allowance for the amount of such deductions claimed. Notice of such adjustment, however, must be furnished the withholding agent.

Tax withheld to be paid to collector of district.

**Art. 34.** The normal tax of 1 per cent shall be deducted and withheld *at the source*, and payment made to the collector of internal revenue as provided in the law, by the debtor, or his, her, or its duly appointed agent authorized to make such deduction and payment.

Tax withheld by one agent not to be again withheld by another agent.

No other person, firm, or organization, in whatever capacity acting, having the receipt, custody, or disposal of any income, as herein provided, shall be required to again deduct and withhold the normal tax of 1 per cent thereon, provided that any such person, firm, or organization other than the debtor who has withheld said tax, shall file with the collector of internal revenue for his, her, or its district, a certificate (Form 1006) showing from whom and in what amount the tax has been so withheld.

Returns to be made to collector of internal revenue.

**Art. 35.** Withholding agents who are required to make monthly returns will, on or before the 20th day of each month, file with the collector for their respective districts such *returns* for the preceding month, accompanied by all certificates relating thereto, and there shall also accompany said returns all certificates claiming exemptions and deductions which are not required to be listed thereon; and on or before the 1st day of March in each year said withholding agents shall likewise file their *annual returns* for the preceding calendar year. Annual



returns (Forms 1041 and 1042) must be accompanied by all certificates claiming exemptions and deductions relating thereto.

**Art. 36.** For regulations as to assessment and collection of taxes from withholding agents, see article 25 and "Assessments and collections," Part 4.

A.

**Income derived from interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, etc.**

**Art. 37.** Under the law a tax of 1 per cent, designated as the normal tax, shall be deducted at "the source," beginning November 1, 1913, from all income accruing and payable to any person subject to such tax which may be derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations, including equipment trust agreements and receivers' certificates of corporations, joint-stock companies or associations, and insurance companies, although such interest does not amount to \$3,000.

Income derived from the interest upon the obligations of a State, county, city, or any other political subdivision thereof, and upon the obligations of the United States or its possessions, is not subject to the income tax, and certificates of ownership in connection with coupons or registered interest orders for such interest will not be required.

**Art. 38.** The term "debtor," as hereinafter used, shall apply to all corporations, joint-stock companies or associations, and insurance companies; and such "debtor" may appoint withholding and paying agents to act for it in matters pertaining to the collection of this tax, upon filing with the collector of internal revenue for the district a proper notice of the appointment of such agent or agents. Where such withholding agent is so authorized by the debtor corporation, he may file with the collector of his district the required returns and accompanying certificates (arts. 50 and 51), in which case the assessment of the tax withheld by him will be made in that district. Unless such authority is given, such reports, etc., will be furnished by the debtor corporation to the collector of its district (i. e., the district in which its principal financial

Tax on income derived from interest on bonds, etc., to be deducted.

Interest on State and Government obligations exempt.

Term "debtor" to apply to all corporations, etc., and to duly appointed withholding and paying agents.

or business office is located), where, in such case, assessment will be made.

Tax to be deducted and withheld by debtor corporation.

**Art. 39.** For the purpose of collecting the tax on all coupons and registered interest originating or payable in the United States, the source shall be the debtor (or its withholding and paying agent in the United States), who shall deduct the tax when same is to be withheld, and no other bank, trust company, banking firm, or individual taking coupons or interest orders for collection, or otherwise, shall withhold the tax thereon, where such coupons or orders for registered interest are accompanied by certificates of ownership signed by the owners of the bonds upon which the interest matured. These certificates shall be made on the prescribed forms and shall be made out by each owner of bonds for the coupons or interest orders for each separate issue of bonds or obligations of each debtor. (See Arts. 43 and 46.)

Banks and individuals taking interest coupons for collection.

Certificates of ownership to accompany interest coupons for collection.

Substitute certificates, when permitted.

**Art. 40.** Responsible banks, bankers, and collecting agents receiving coupons for collection with the aforesaid certificates of ownership attached, may present the coupons with the attached certificates to the debtor or withholding agent for collection, or such certificates may be detached and forwarded direct to the Commissioner of Internal Revenue, provided such bank, banker, or collecting agent shall substitute for such certificates its own certificate, and shall keep a complete record of each transaction, showing—

Record to be kept by collecting agent.

1. Serial number of item received.
2. Date received.
3. Name and address of person from whom received.
4. Name of debtor corporation.
5. Class of bonds from which coupons were cut.
6. Face amount of coupons.
7. Exemptions from tax claimed by owner under paragraph C.

For the purpose of identification, such substitute certificates should be numbered consecutively, and corresponding numbers given the original certificates of ownership.

Privilege of substituting certificates extended to foreign countries.

The permission here granted will extend to responsible banks, bankers, and collecting agents in foreign countries, through whom collection of such interest coupons is made.

The various substitute certificates hereby authorized will correspond with the form numbers of the ownership certificates detached by the collecting agent, except that the substitute certificates' form numbers will be followed by the letter "a."

**Art. 41.** A debtor whose bonds may be registered, both as to principal and interest, shall deduct the normal tax of 1 per cent from the accruing interest on all bonds before sending out checks for said interest to registered owners or before paying such interest upon interest orders signed by the registered holders of said bonds unless there shall be filed with said debtor or its fiscal agent (not later than 30 days prior to March 1), through whom said interest is customarily paid, the proper certificates claiming exemption from liability for said tax as herein provided, executed—

Normal tax to be deducted before payment of interest.

By a citizen or resident of the United States, the bona fide owner of the registered obligations, who may claim exemption under paragraph C, section 2, of the income tax law, or

Claims for exemption from tax, by whom same may be filed.

By corporations, joint-stock companies, associations, or insurance companies organized in the United States, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation, as provided in paragraph G, subdivision (a), of the act, or

By a bona fide resident and citizen of a foreign country, claiming exemption as such.

**Art. 42.** If the owners of the bonds are individuals who are citizens or residents of the United States, the aforesaid certificates shall accompany the coupons, or, with respect to the interest on registered bonds, shall be filed with payer of said interest, and such certificates shall describe the bonds and show the amount of coupons attached or the amount of interest due such owners on registered bonds and the name and address of the owners, and if registered in names other than the owners such names with addresses shall also be given. Such certificates shall also show whether the claimants do or do not then claim exemption from taxation at the source, under paragraph C, articles 9 and 10 (\$3,000, and under certain conditions \$4,000), as to the income represented by such coupons or interest. The certificates will be prepared on Form 1000 and must show the amount, if any, of exemption claimed, the total amount of exemption to which the claimant is entitled and must be signed

Certificates of ownership to specify bonds and amount of interest due.

Claim for exemption under paragraph C.

by the claimants, who shall use their ordinary business signatures. The certificates shall also show the post-office and street address of the claimants, the internal-revenue district, and the date when signed.

Certificates may be signed by duly authorized agents, etc.

**Art. 43.** Duly authorized agents may sign such certificates for the persons for whom they act, and withholding agents, banks, or others, with whom such certificates are filed, if satisfied as to the identity and responsibility of the persons so signing, shall stamp or write on the face of each such certificate "Satisfied as to identity and responsibility of agent," giving name and address of person thus certifying. Certificates so verified may be accepted by all other persons, firms, or organizations to whom presented, without question as to authority of such agent. If the person, firm, or organization first receiving such certificate is not satisfied as to the agent's identity and responsibility, then, in that event, the agent shall furnish evidence of his authority to so act, which will be retained by the person, firm, or organization receiving it, and the certificate of ownership shall be indorsed as above provided.

Certificates to be verified by withholding agents.

Tax to be deducted before payment of interest.

**Art. 44.** Whenever interest coupons, accompanied by a certificate of an individual who is a citizen or resident of the United States, are presented to a debtor or its withholding agent for payment, or whenever interest is payable to such individual on a bond registered as to both principal and interest, the debtor or its withholding agents shall deduct and withhold the amount of the normal tax, except to the extent that exemption is claimed in the certificate of ownership (Form 1000).

Where the interest to be paid is registered, the same form of certificate shall be used where exemptions are claimed, and it shall be filed with the debtor at least five days before the due date of such interest.

Tax on interest payable to certain corporations, etc., not to be deducted.

**Art. 45.** If the owners of the bonds are corporations, joint-stock companies, associations, or insurance companies organized in the United States, no matter how created or organized, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation as provided in paragraph G, subdivision (a) of the act, the debtor is not required to withhold or deduct the tax upon income derived from interest on such bonds, provided coupons or orders for interest from such bonds shall be accompanied by a certificate of the owners thereof certifying to such ownership, which certificates

shall be filed with the debtor when such coupons or interest orders are presented for payment.

Such certificate will be made on Form 1001, and must be signed in the name of the organization (stating its place of business) by the president, secretary, or some other principal officer of the said corporation or organization duly authorized to sign same, and must be properly dated.

**Art. 46.** Coupons, or orders for registered interest, payable in the United States, representing the interest on bonds owned by nonresident aliens, must be accompanied by the prescribed certificate (Form 1004), but this certificate may be signed either by the owner or, in behalf of the owner, by a reputable bank or bankers or other responsible collecting agency, certifying to the ownership of the bonds and giving the name and address of the bona fide nonresident and alien owners, and when such certificate is thus attached the normal tax of 1 per cent on such coupons or interest orders need not be withheld at the source by the debtor or collecting agency. Unless such proof of foreign ownership is furnished, the normal tax of 1 per cent should be deducted.

Foreign organizations engaged in business within the United States are subject to the normal tax of 1 per cent per annum upon the amount of net income accruing from business transacted and capital invested within the United States; but said organizations shall be exempt from having any part of their income withheld by a debtor or withholding agent, and claim for such exemption will be made on Form 1018.

**Art. 47.** Inasmuch as individual members of a partnership are liable for income tax upon their respective interest in the net earnings of such partnership, the partnership may file with the withholding agent a notice signed in the name of the partnership, by a member thereof, claiming a deduction of a specific amount on account of the legitimate expense incurred in conducting the business of said partnership; and upon receipt of said notice said withholding agent shall not withhold, and shall not be held liable for, the normal tax on the amount of income equal to the amount of deduction claimed in said notice; but in no event shall the total of the amounts claimed, as provided herein, be in excess of the total amount of the actual legitimate annual expenses incurred by said partnership in the conduct of its busi-

ness. Application for such deduction shall be made on Form 1011.

Foreign partnerships, certificate of ownership may be filed by:

**Art. 48.** Foreign partnerships or firms, all the members of which are both citizens, or subjects, and residents of a foreign country, which are the owners of bonds and mortgages or deeds of trust or other similar obligations, including equipment trust agreements, receivers' certificates, and stocks of corporations, joint-stock companies or associations and insurance companies, organized or doing business in the United States, may file with the debtor or withholding agent, with their coupons or orders for registered interest, or orders for other income derived from property or investments in the United States, a certificate and notice of ownership (Form 1016) setting forth the above facts; and the debtor or withholding agent shall not withhold any part of said income.

Foreign partnership, composed of nonresident foreigners and citizens of United States.

**Art. 49.** Where a foreign partnership or firm is composed of both nonresident foreigners and citizens of the United States, or foreigners residing in the United States or its possessions, the certificate of ownership shall show this fact, and the name and legal address of each member of said partnership who is a citizen of the United States, or who is a foreigner residing in the United States or its possessions, shall be given on the back of said certificate, and no part of said income shall be withheld. The said certificate and notice of ownership in either case above provided shall be on Form 1014.

Monthly list return.

**Art. 50.** Withholding agents are required to file in duplicate a monthly list return (Form 1012) giving a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld from interest payments made upon bonds or other similar obligations, and shall show the name and address in full of the owners of the bonds, amount of the income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld.

Forms 1012a, 1012b, and 1012c are to be used where Form 1012 does not afford sufficient space in which to enter all items.

Summary of monthly lists may be used.

Form 1012d, when necessary to be used, shall be made in duplicate and shall be a summary of the monthly list return, Form 1012, as made in detail by the withholding agent, and the said summary and lists thereto attached when properly filled in and the summary signed and

sworn to shall constitute the complete monthly list return of the withholding agent making same as fully as if each list attached to the summary was signed and sworn to separately.

An annual list return (Form 1013) in duplicate is also required to be made by debtors or withholding agents of the normal tax of 1 per cent withheld from interest payments made upon bonds or other similar obligations, and it shall be filed on or before March 1 of each calendar year.

Art. 51. The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by debtors or withholding agents, and the debtor or withholding agent will not be required, in making an annual list return of the tax withheld from income derived from interest upon bonds and mortgages or deeds of trust, or other similar obligations of corporations, joint-stock companies, or associations and insurance companies, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

All substitute certificates of collecting agents, authorized by regulations, that are received by debtors or withholding agents will be considered the same as certificates of owners, and in entering same in making monthly list returns debtors or withholding agents will enter the name and address of the collecting agent and the number of the substitute certificate issued in lieu of the original certificate containing the name and address of the owner of the bonds. Until the further ruling on this subject by this department no list return is required to be made of certificates of ownership accompanying coupons or registered interest orders filed with a debtor or withholding agent *when the owners of the bonds are not subject to having the normal tax withheld at the source*, but all such certificates of ownership shall be forwarded by the debtor or withholding agent to the collector of internal revenue for the district, on or before the 20th day of the month succeeding that in which said certificates of ownership were received.

Monthly list to constitute a part of the annual list return.

Certificates to be forwarded to collector.

## B.

**Income derived from interest upon bonds, mortgages, etc., paid by first bank or collecting agency when certificates of owners are not filed.**

Interest coupons or orders, not accompanied by certificate.

**Art. 52.** Where the coupons or interest orders are not accompanied by certificates as heretofore prescribed, the first bank, trust company, banking firm, or individual, or collecting agency receiving the coupons or interest orders for collection, or otherwise, shall deduct and withhold the tax and shall attach to such coupons or interest orders its own certificate (Form 1002), giving the name and address of the owner of, or the person presenting such coupons or interest orders if the owner is not known, with a description of the coupons or interest orders; also setting forth the fact that they are withholding the tax upon them; whereupon the debtor shall not again withhold the tax on said coupons or interest orders, but in lieu thereof shall deliver to the Collector of Internal Revenue the certificate of such bank, trust company, etc., which is withholding such tax money.

Identity of persons presenting interest coupons to be established.

Any corporation, collecting agency, or person first receiving from the owner any interest coupons or orders for the collection of registered interest should require the persons tendering such coupons or orders for registered interest to satisfactorily establish their identity.

Monthly and annual list returns.

**Art. 53.** Withholding agents receiving coupons or interest orders not accompanied by certificates of owners are required to file monthly and annual list returns in duplicate.

The required monthly list return (Form 1044) shall give a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld and shall show the name and address in full of the owner of, or the person presenting such coupons or interest orders, if the owner is not known, amount of the income subject to tax and the amount of tax withheld.

An annual list return (Form 1044a) is also required to be made by such withholding agents, showing the amount of tax withheld during the preceding year on income of this character. This return must be filed on or before the 1st day of March of each calendar year.

The monthly list returns in the form as required herein shall constitute a part of the annual list return to be made, and the withholding agent will not be required, in making



an annual list return of the tax thus withheld, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list returns for the year for which annual list return is made.

## C.

**Income derived from coupons, checks or bills of exchange on foreign bonds, mortgages, dividends, etc.**

**Art. 54.** All persons, firms, or corporations undertaking for accommodation or profit (this includes handling either by way of purchase or collection) the collection of coupons, checks, bills of exchange, etc., for or in payment of interest upon bonds issued in foreign countries, and upon foreign mortgages or like obligations, and for any dividends upon stock or interest upon obligations of foreign corporations, associations, or insurance companies engaged in business in foreign countries, are required by law to obtain a license from the Commissioner of Internal Revenue. Collection of coupons, checks, bills of exchange, etc.  
License to be obtained from Commissioner of Internal Revenue.

**Art. 55.** Applications for such license (Form 1017) will be made to the collector for the district in which such business is to be carried on. Upon the acceptance of such application the collector will issue to the applicant without cost a license (Form 1010) which will continue in force until revoked or canceled. Blank forms of such license, bearing the fac simile signature of the Commissioner of Internal Revenue, will be furnished collectors on requisition, who will in all cases countersign the same before issuing it to applicant. Failure to obtain a license or to comply with regulations is punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both, in the discretion of the court. Application for license to be made to collector of district.  
Penalty for failure to obtain license.

**Art. 56.** Where the collector is not sufficiently informed as to the entire responsibility of the applicant, or where in any case he deems it advisable, the Commissioner of Internal Revenue may upon the recommendation of the collector require of the applicant a bond, in duplicate, with satisfactory sureties, in a penal sum at least equal to the estimated amount of tax to be withheld by such applicant during any one year. A form of bond to be given in such cases will be furnished collectors on application for the same. Where licenses are issued without bond, the collector will each year inquire into and satisfy himself of the financial responsibility of the licensee. Bond may be required in certain cases.

**Art. 57.** When any person, firm, or corporation shall have branch offices and desire to collect foreign interest or dividend income through said branch offices, the application for license or licenses shall be made by the person, firm, or corporation through its principal office for its branch office or offices. Application for licenses in such cases shall be made to the collector of internal revenue for the district in which the home office is located. The names and addresses of the branch offices shall be furnished to the collector in the application of the said principal, and if the requirements of the foregoing regulations have been complied with to the satisfaction of the collector, he shall certify this fact to the collector of internal revenue for the district in which the branch office is located, and the collector to whom this certification is made shall issue to such branch office a license, as in the case provided in article 55.

**Art. 58.** The licensed person, firm, or corporation first receiving any such foreign items for collection or otherwise, shall withhold therefrom the normal tax of 1 per cent, and will be held responsible therefor. Such licensee shall indorse or stamp on each such coupon, check, or bill of exchange, when practicable, the words "Income tax withheld by" (giving his or their name, address, and date), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the income tax.

If the size or nature of such coupons, checks, etc., makes it impracticable to make said indorsement thereon, a statement identifying the item on which tax is withheld and bearing said indorsement may be attached thereto with the same effect as if the indorsement was made directly thereon.

**Art. 59.** Such licensee shall obtain the names and addresses of the persons from whom such items are received and shall prepare a list of same in duplicate (on Form 1043) and file it with the collector of internal revenue for his district not later than the 20th day of the month next succeeding the month in which such items were paid. The list shall be dated, and shall contain the names and addresses of the taxable persons, the character and amount of income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld. In addition to the monthly lists the licensee will, on or

License to be obtained for branch offices.

Application for license to be certified to collector of district in which branch offices are located.

Normal tax on interest collected to be withheld by agent.

Statement as to tax withheld to be indorsed or appended to coupons, checks, etc.

Licensee to furnish collector of district with list of taxes deducted, etc.

before the 1st day of March in each year, file with the collector in duplicate a return (Form 1043a), showing the amount of income paid and the amount of tax withheld by him during the preceding year and such other information as the form prescribes.

The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by the licensee as withholding agent, and he will not be required, in making an annual list return of the tax withheld from income described in article 54, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

**Art. 60.** In the event such coupons, checks, or bills of exchange above mentioned are presented for collection by an individual claiming the benefit of the exemptions allowable under paragraph C (arts. 9 and 10), such individual shall be permitted to avail himself of the exemption claimed, upon signing on the form heretofore prescribed for coupons payable in the United States, and no tax shall be deducted for the amount of the exemption so claimed; or if such items are presented by corporations, joint-stock companies, or associations and insurance companies, organized in the United States, the form of certificate heretofore prescribed for such organizations shall be used, and in such instances no tax shall be deducted.

Claims for exemption under paragraph C may be filed.

Organizations exempt from having tax withheld at the source.

**Art. 61.** In both instances the licensee first receiving such items shall retain such certificates for delivery with the lists aforesaid, and with respect to said coupons, checks, or bills of exchange, said licensee shall attach thereto (identifying the items) or indorse or stamp thereon the words "Income tax exemption claimed through" (giving name and address of licensee), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the tax thereon.

Certificates of exemption to be forwarded with monthly list returns to collector.

The provisions for collection of the tax on foreign obligations herein set forth includes the interest upon all foreign bonds, even though the coupons may, at the option of the holder, be payable in the United States as well as in some foreign country.

**Art. 62.** All persons licensed shall keep their records in such manner as to show from whom every such item has been received, and such records shall be open at all times to the inspection of internal-revenue officers.

Licensee to keep records.

## D.

**Income derived from wages, rent, interest, or other fixed and determinable gains, profits, and income.**

Wages, salaries,  
rents, etc.

**Art. 63.** The above title includes all income derived from salaries, wages, rents, royalties, interest, taxable annuities, emoluments, or other fixed and determinable annual gains, profits, and income of another person. ("Income derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations of corporations, etc.," and "Income derived from coupons, checks, or bills of exchange on foreign bonds, mortgages, dividends, etc.," which have been covered by regulations under such titles, are not to be included here.)

Withholding  
agents to deduct  
and pay tax.

**Art. 64.** Copartnerships, companies, corporations, joint-stock companies or associations, insurance companies, in whatever capacity acting, including lessees, mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers and all officers and employees of the United States, hereinafter referred to as "debtors" or withholding agents, having the control, receipt, custody, disposal, or payment of income as described in article 63, shall deduct and withhold from such annual gains, profit, and income, when the same shall have reached an aggregate amount in excess of \$3,000, such sum as will be sufficient to pay the normal tax of 1 per cent imposed by law, and shall pay the taxes so withheld to the collector of internal revenue for the district in which the said withholding agent resides or has his, her, or its principal place of business.

Tax to be with-  
held on periodical  
payments when  
they aggregate  
\$3,000.

**Art. 65.** A withholding agent who pays monthly, or periodically during the year, interest, rents, salaries, wages, etc., shall not withhold the said tax until such time as the interest, rents, salaries, wages, etc., shall have reached an aggregate amount in excess of \$3,000. When such amount has been reached, such agent shall withhold the tax on the whole \$3,000 and any excess thereof, unless the person to whom the income is due files a notice claiming exemption under paragraph C (as provided in art. 33(a)), in which case the withholding agent shall withhold only the tax on the income in excess of said exemption of \$3,000 or \$4,000 (as the case may be), and the tax so withheld shall be paid as required by law.

Exemption un-  
der paragraph C  
may be claimed.

**Art. 66.** In case the person to whom the income is due is entitled to any deductions under paragraph B, he may avail himself of such deductions by filing with the withholding agent Form 1008, as provided in article 33(b), in which case the withholding agent will only withhold the tax on such income in excess of the deductions claimed on said form.

**Art. 67.** Banks, bankers, trust companies, and other banking institutions receiving deposits of money, are not required to withhold at the source the normal income tax of 1 per cent on interest paid, or accrued, or accruing to depositors, whether on open accounts or on certificates of deposit; but all such interest, whether paid or accrued and unpaid, must be included in the annual income return of the person entitled to receive such interest, whether on open account or on the certificate of deposit.

**Art. 68.** When a note shall have been given in payment of interest, rents, or other income accruing after March 1, 1913, the maker of the note, as the "debtor" and as the "source" where the income originates, is required, in paying such note, to withhold the normal tax of 1 per cent on the entire amount of the note, if in excess of \$3,000, unless claim for exemption or deductions under article 33(a) or 33(b) is filed, in which case the said tax shall be withheld only on the amount of said note in excess of the exemption or deductions so claimed.

If any person who has purchased or discounted any such notes omitted, in acquiring them from previous holder, to make a deduction or allowance for said tax, he can look for relief only to the person from whom the notes were obtained, as the "debtor," the maker of said notes, is required to deduct, withhold, and pay to the collector of internal revenue the amount of the normal tax of 1 per cent which may be due thereon.

**Art. 69.** Withholding agents shall make an annual list return (Form 1042), in duplicate, to the collector of internal revenue for the district in which the withholding agent resides or has his principal place of business on or before the 1st day of March in each year, showing the names and addresses of persons who have received incomes in excess of \$3,000, of which the normal tax of 1 per cent has been deducted and withheld during the preceding year. This return must be accompanied by all forms presented claiming exemptions and deductions.

Deductions under paragraph B may be claimed.

Tax not to be withheld by banks on interest paid on deposits.

Tax to be withheld on payment of interest notes, or notes given for rent.

Purchasers of interest notes as to which tax has not been withheld.

Annual list return by withholding agents.

## E.

**Fiduciaries.**

Guardians, etc.,  
as fiduciary  
agents, to deduct  
tax.

Notice of de-  
duction to be filed  
with other with-  
holding agents.

Annual return  
to be made to the  
collector of the  
district.

**Art. 70.** Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity hereinafter referred to as fiduciary agents, who hold in trust an estate of another person or persons, shall be designated the "source" for the purpose of collecting the income tax, and by filing notice with other debtors or withholding agents said fiduciary shall be exempt from having any income, due to them as such, withheld for any income tax by any other debtor or withholding agent. Other debtors or withholding agents upon receipt of such notice shall not withhold any part of such income from said fiduciary and will not in such case be held liable for normal tax of 1 per cent due thereon. The form of notice to be filed with the debtor or withholding agent by fiduciary will be on Form 1015. Where such exemption is not claimed, notice thereof on Form 1019 should be filed with the withholding agent.

**Art. 71.** Fiduciaries shall, on or before March 1 of each year, make and render a return of the income coming into their custody or control and management from each trust or estate when the annual interest of any beneficiary in said trust or estate is in excess of \$3,000. This return (Form 1041) must be filed with the collector for the district in which the fiduciary resides or has his principal place of business, and shall contain an itemized statement of the gross income and deductions claimed.

Notice of failure to file return as required shall be served upon the fiduciary. (See art. 18.)

The entries on the first page of Form 1041 in column headed "Amount of income paid or accrued to beneficiaries" should not include their respective shares of income derived from dividends on the stock or from the net earnings of corporations, joint-stock companies, etc., subject to like tax or the income on which the normal tax of 1 per cent has been deducted and withheld at the source by the debtor or the prior withholding agent, as these two items of income are treated as deductions in determining the amount of income subject to tax for which the fiduciary as withholding agent has to account.

When the share of any beneficiary, therefore, in the amount stated on line 3 of the first page of said return is in excess of \$3,000, return must be made.

**Art. 72.** As each such fiduciary acts solely in behalf of the beneficiaries of the trust, the annual return required in such cases has reference only to the income accruing and payable through said fiduciary, and not to the income of the beneficiary derived from other sources. If, however, such fiduciary is legally authorized to act for such beneficiary as agent or attorney in fact, he may in such case also make for the beneficiary the personal annual return (Form 1040) required by law.

**Art. 73.** The annual return of the fiduciary shall contain a list of the name and full address of each beneficiary and the share of said income to which each may be entitled. There must also be entered opposite the name of each beneficiary the amount of exemption, if any, claimed by him, the amount of income on which the fiduciary is liable for tax, and the amount of tax withheld, and the said return shall be signed and sworn to by the fiduciary, if an individual, making same, and his full address must be stated. If the fiduciary is an organization, the return shall be signed and sworn to by the president, secretary, or treasurer of said organization.

**Art. 74.** Fiduciaries having control of any portion of an annual income accruing during the year, but not distributed or paid to the beneficiaries during the year, shall, in rendering their annual return (Form 1041), give the name and address of each of said beneficiaries having a distributive interest in said income, and shall furnish all information called for in such returns. The fiduciary shall in all such cases withhold and pay to the collector, as provided by law, the normal tax of 1 per cent upon the distributive interest of each of said beneficiaries when in excess of \$3,000, the same as if said income was actually distributed and paid. Exemption under paragraph C, however, may be claimed by the beneficiary or his legal representative by filing his claim for exemption with the fiduciary agent.

**Art. 75.** When the normal tax on undivided annual income has been so withheld, such tax shall not be again withheld when such portion of the income is actually distributed and paid to said beneficiary.

Return to include only income accruing from trust, unless otherwise authorized by beneficiary.

Annual return to include list of beneficiaries, showing tax withheld from each.

Return to be made of undistributed income accruing during the year.

Claim for exemption of undistributed income. Paragraph C.

Tax withheld on undivided income not to be again withheld when income is distributed.

## PART 3.

## RELATING TO THE INCOME TAX IMPOSED BY SECTIONS 2 AND 4 OF THE ACT OF OCTOBER 3, 1913, ON CORPORATIONS, JOINT-STOCK COMPANIES OR ASSOCIATIONS, AND INSURANCE COMPANIES.

Organizations  
subject to tax.

**Art. 76.** Under the provisions of sections 2 and 4 of the act of October 3, 1913, every corporation, joint-stock company or association, and every insurance company organized in the United States, no matter how created or organized, except those specifically exempted, shall be subject to pay annually an income tax of 1 per centum per annum upon the entire net income arising or accruing from all sources during the preceding calendar or fiscal year, as the case may be. Certain exceptions as to taxability will be noted specifically hereinafter.

One per cent on  
entire net income.

Foreign cor-  
porations subject  
to the tax.

**Art. 77.** A similar tax shall be levied, assessed against, and paid annually by corporations, joint-stock companies or associations, and insurance companies organized, authorized, or existing under the laws of any foreign country upon the amount of net income accruing from business transacted and capital invested within the United States during such year.

Corporations  
defined.

**Art. 78.** "Corporation" or "corporations," as used in these regulations, shall be construed to include all corporations, joint-stock companies or associations, and all insurance companies coming within the terms of the law, and such organizations will hereinafter be referred to as "corporations."

Associations,  
real estate trusts,  
etc., subject to  
tax.

**Art. 79.** It is immaterial how such corporations are created or organized. The terms "joint-stock companies" or "associations" shall include associates, real estate trusts, or by whatever name known, which carry on or do business in an organized capacity, whether organized under and pursuant to State laws, trust agreements, declarations of trusts, or otherwise, the net income of which, if any, is distributed, or distributable, among the members or share owners on the basis of the capital stock which each holds, or, where there is no capital stock, on the basis of the proportionate share of capital which each has invested in the business or property of the organization, all of which joint-stock companies or associations shall, in their organized capacity, be subject to the tax imposed by this act.

Corporations  
required to make  
returns.

**Art. 80.** Every corporation not specifically enumerated as exempt shall make the return of annual net income



required by law whether or not it may have any income liable to tax, or whether or not it shall be subordinate to or controlled by another corporation. Mutual telephone companies, mutual insurance companies, and like organizations, although local in character, and whose income consists largely from assessments, dues, and fees paid by members, do not come within the class of corporations specifically enumerated as exempt. Their status under the law is not dependent upon whether they are or are not organized for profit. Not coming within the statutory exemption, all organizations of this character will be required to make returns of annual net income, and pay any income tax thereby shown to be due. For this purpose the surplus of receipts of the year over expenses will constitute the net income upon which the tax will be assessed.

Mutual telephone and mutual insurance companies not exempt.

A railroad or other corporation which has leased its properties in consideration of a rental equivalent to a certain rate of dividends on its outstanding capital stock and the interest on the bonded indebtedness, and such rental is paid by the lessee directly to the stock and bond holders, should, nevertheless, make a return of annual net income showing the rental so paid as having been received by the corporation.

**Art. 81.** A railroad company operating leased or purchased lines shall include all receipts derived therefrom, and, if bonded indebtedness of such lines has been assumed, such operating company may deduct the interest paid thereon to an amount not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year.

Interest deduction by corporations operating leased or purchased lines.

**Art. 82.** Corporations operating leased lines should not include the capital stock of the lessor corporations in their own statement of capital stock outstanding at the close of the year. The indebtedness of such lessor corporations should not be included in the statement of the indebtedness of the lessee unless the lessee has assumed the same. Each leased or subsidiary company will make its own separate return, accounting for therein all income which it may have received by way of dividends, rentals, interest, or from any other source.

Lessee corporations not to include capital stock or indebtedness of lessor corporations.

**Art. 83.** A foreign corporation having several branch offices in the United States should designate one of such branches as its principal office and should also designate the proper officers to make the required return.

Foreign corporations having branch offices in United States to designate principal office.

Corporations organized during year to make returns.

**Art. 84.** A corporation organized during the year should render a sworn return on the prescribed form, covering that portion of the year (calendar or fiscal) during which it was engaged in business or had an income accruing to it.

Corporations going into liquidation.

**Art. 85.** Corporations going into liquidation during any tax period may, at the time of such liquidation, prepare a "final return" covering the income received or accrued to them during the fractional part of the year during which they were engaged in business, and immediately file the same with the collector of the district in which the corporations have their principal places of business.

Limited partnerships.

**Art. 86.** Limited partnerships are held to be corporations within the meaning of this act and these regulations, and in their organized capacity are subject to the income tax as corporations.

Corporations exempt from tax.

**Art. 87.** The act specifically enumerates and exempts from its provisions and requirements labor, agricultural, or horticultural organizations, mutual savings banks not having a capital stock represented by shares, fraternal beneficiary societies, orders, or associations 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, and other benefits to the members of such societies, orders, or associations, and dependents of such members, domestic building and loan associations, cemetery companies organized and operated exclusively for the mutual benefit of their members, any and all corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of whose net income inures to the benefit of any private stockholder or individual, business leagues, chambers of commerce, or boards of trade not organized for profit, no part of the net income of which inures to the benefit of the private stockholder or individual, and civic leagues or similar organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Domestic building and loan associations defined. Mutuality essential.

Domestic building and loan associations are among those enumerated as exempt from the requirements of the law. A domestic building and loan association is held to be one organized under and pursuant to the laws of the United States, or of a State or Territory thereof, or under the laws applicable to Alaska or the District of Colum-

bia. Mutuality in operation and in the distribution of profits and benefits is essential to exemption. Therefore, in order to come within the exempted class such associations must not only be "Domestic," as defined, but they must be organized and operated exclusively for the mutual benefit of the members; that is, all the profits and benefits provided for in the articles of association and by-laws must be ratably distributed among all members regardless of the kind of stock held, according to the amount of money they have on deposit. An association issuing different classes of stock upon which different rates of interest or dividends are guaranteed or paid, does not come within the exempted class.

**Art. 88.** All corporations and all beneficiary societies enumerated above shall by affidavit, or otherwise, at the request of the collector or Commissioner of Internal Revenue, establish their right to the exemption provided, in which case it will not be sufficient to merely declare that they are exempt, but they must show the character and purpose of the organization, the manner of distributing the net income, if any, or that none of the net income inures to the benefit of any private stockholder or individual. In the absence of such a showing, such organizations may, at any time, be required to make returns of annual net income or disclose their books of account to a revenue officer for examination in order that the status of the company may be determined.

Corporations must establish their right to exemption.

**Art. 89.** A society or association "operating under the lodge system" is considered to be one organized under a charter, with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by fees, dues, or assessments.

Society or association subject to exemption defined.

**Art. 90.** Cemetery companies organized and operated exclusively for the mutual benefit of their members are exempt. The provisions of the law clearly indicate that companies which operate cemeteries for profit are liable to the tax. The status of cemetery associations under the law will, therefore, depend upon the character and purpose of the organization and what disposition is made of the income.

Cemetery companies organized for mutual benefit of their members, exempt.

**Art. 91.** Any corporation, concerning whose status under the law there is any doubt, or which does not clearly come within one or another of the classes of those specifically enumerated as exempt, should file a return

Corporations whose status as to exemption is in doubt must make return.

(in blank if desired) and attach thereto a statement setting out fully the nature and purpose of the organization, the source of its income, and what disposition is made of it, and particularly of any surplus.

Cooperative dairies not issuing stock and allowing patrons dividends, exempt. **Art. 92.** Cooperative dairies not issuing stock and allowing patrons dividends based on butter fat in milk furnished are not liable. In such case the "dividends" are the purchase price of the raw material furnished.

When income from public utilities is not taxable. **Art. 93.** The income derived from any public utility or from the exercise of any essential governmental function, which income accrues to any State, Territory, the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, and any income accruing to the government of the Philippine Islands, or to Porto Rico, shall not be subject to the tax imposed by this act. In cases wherein any State, Territory, or the District of Columbia, or any political subdivision of a State, or Territory, shall have, prior to the passage of this act, contracted in good faith with any person or corporation to acquire, construct, operate, or maintain a public utility, no income tax pursuant to this act shall be levied upon the income derived from the operation of such public utility, so far as the assessment and payment of such tax will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision. But the person or corporation is not relieved from the payment of the tax upon that portion of the income accruing to him, or it, under such contract.

Persons or corporations not exempt.

Partnerships not taxable as corporations. **Art. 94.** Ordinary copartnerships are not, as such, subject to the tax imposed by this act, but the individual members of any such partnership are liable for income tax only in their individual capacity on their respective shares of the earnings of such partnership, whether such earnings be distributed or not.

What constitutes paid-up capital stock. **Art. 95.** Full amount of stock, as represented by the par value of the shares issued, is to be regarded as the paid-up capital stock, except when such stock is assessable on account of deferred payments, or payable in installments, in which case the amount actually paid on such shares will constitute the actual paid-up capital stock of the corporation.

Gross income, how determined. **Art. 96.** The following definitions and rules are given for determining the gross income of various classes of corporations:

Gross income of banks and other financial institutions consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account, within the calendar or fiscal year for which the return is made.

Gross income of banks and other financial institutions.

**Art. 97.** Gross income of insurance companies consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account within the calendar or fiscal year for which the return is made, except as modified by the express exemptions of the articles which apply to mutual fire, mutual marine, and life insurance companies.

Gross income of insurance companies.

**Art. 98.** Mutual fire insurance companies, which require their members to make premium deposits to provide for losses and expenses, shall not return as gross income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Gross income of mutual fire insurance companies.

**Art. 99.** Mutual marine insurance companies may include in their deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, such amounts and interest having been included in gross income.

Mutual marine insurance companies.

**Art. 100.** Life insurance companies are authorized to omit from gross income such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to the policyholder or treated as an abatement of his premium. In so far as "deferred dividends" payable at a stated period represent "a portion of any actual premium received," such deferred dividends may be included in the amounts to be omitted from gross income for the year in which they were actually paid back, credited to the policyholder, or applied as an abatement of premium. In the case of dividends credited or apportioned annually to the policyholder, only the aggregate amount so actually credited or apportioned during the premium-paying period, and not any accretions thereto, can be excluded from gross

Deferred dividends deductible, when.

income. In the case of whole-life or five-year distribution policies, deferred dividends may be excluded from gross income to the extent that they are paid back, or credited to the insured, or used as an abatement of his annual premiums.

Gross income of insurance companies, to include what.

**Art. 101.** Gross income of insurance companies, as defined above, will include net premium income as reported to the State insurance departments, except the foregoing items specifically exempted in the act, and, in the case of life insurance companies, surrender values applied in any manner, consideration for supplementary contracts involving and not involving life contingencies, and all other income, gains, or profit as shown by the books of account.

Consideration for supplementary contracts.

**Art. 102.** Applied surrender values and consideration for supplementary contracts not involving life contingencies included in income will, of course, be deducted as payments under policy contracts, but for convenience in verifying the returns, these items should appear in the return in both gross income and deductions.

Supplementary statement to accompany returns.

**Art. 103.** All insurance companies should include and attach to their returns a supplementary statement showing, for life companies, the aggregate of items "of such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder within such year;" in the case of mutual fire insurance companies a statement showing "any portion of the premium deposits returned to their policyholders;" and in the case of mutual marine companies "amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof," which are, or may be, omitted from gross income. (For authorized deductions, on account of losses, etc., see Arts. 113 and 147.)

Gross income of manufacturing companies.

**Art. 104.** Gross income of manufacturing companies shall consist of the total sales of manufactured goods during the year covered by the return, increased or decreased by the gain or loss as shown by the inventories of finished and unfinished products, raw material, etc., at the beginning and end of the year. To this amount should be added the income, gains, or profits from all other sources as shown by the books of account.

**Art 105.** Gross income of mercantile companies shall include the total merchandise sales during the year, increased or decreased by the gain or loss as shown by the inventories of merchandise at the beginning and end of the year for which the return is made; to this amount should be added the income, gains, or profits derived from all other sources as shown by the books of account.

Gross income of mercantile corporations.

**Art. 106.** Gross income of miscellaneous corporations consists of the total revenue derived from the operation and management of the business and property of the corporation making the return, together with all amounts of income, including the income, gains, or profits from all other sources as shown by the books of account.

Gross income of miscellaneous companies.

**Art. 107.** It will be noted from these definitions that the gross income embraces not only the operating revenues, but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations, and appreciation in values of assets, if taken up on the books of account as gain; also profits made from the sale of assets, investments, etc.

Definition of gross income.

**Art. 108.** For the purpose of determining the income resulting from the sale of capital assets and the amount to be accounted for as income under this act, there shall be included any and all profit resulting from such sale and which may be apportioned to the period during which the corporation tax law (sec. 38, act of Aug. 5, 1909) was in force and effect, which was not returned as income during that period.

Income derived from sale of capital assets.

**Art. 109.** In ascertaining net income derived from the sale of capital assets, if such assets were acquired subsequent to January 1, 1909, the difference between the selling price and the buying price shall constitute an item to be added to or subtracted from gross income according to whether the selling price was greater or less than the buying price. If the capital assets were acquired prior to January 1, 1909, the amount of profit or loss representing the difference between the selling and buying price is to be prorated to determine the proportion of the gain or loss arising subsequent to January 1, 1909, and the proportionate part belonging to the years subsequent to January 1, 1909, shall be added to or deducted from the gross income for the year in which the sale was made.

Ascertaining net income from the sale of capital assets.

Profit or loss arising from the sale of such assets.

**Art. 110.** For the purpose of determining the profit or loss arising from the sale of such assets, there shall be added to the price actually realized from the sale any amount which has heretofore been set aside and deducted from gross income by way of depreciation since January 1, 1909, which has not been paid out in making good such depreciation on the property sold.

Changes in book value of assets.

**Art. 111.** In the case of changes in book values of capital assets resulting from a reappraisal of property, the consequent gains or losses shall be computed for the return in the manner prescribed above in the case of the sale of capital assets

Result of annual adjustment of values to be shown in return.

In cases wherein there is an annual adjustment of book values of securities, real estate and like assets, and the increases and decreases in values, thus indicated, are taken up on the books and reflected in the profit and loss account, such readjusted values will be taken into account in making the return of annual net income and no prorating will be required. If such adjustment had been made annually prior to March 1, 1913, the book value of the assets at that date will be taken as the basis for determining gain or loss resulting from subsequent sale, maturity, or adjustment. The adjustment referred to will comprehend assets which have increased in value as well as those which have decreased.

Where corporations are engaged in more than one class of business.

**Art. 112.** Where a corporation is engaged in carrying on more than one class of business, gross income derived from the different classes of business shall be ascertained according to the definitions above, and which are applicable thereto.

Net income, how ascertained.

**Art. 113.** The net income shall be ascertained by deducting from the gross amount of the income of such corporation received within the year from all sources:

Ordinary and necessary expenses.

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property.

Loss sustained within the year.

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines, a reasonable allowance for depletion of ores and all natural deposits, not to exceed 5 per centum of the gross value

Depreciation.



at the mine of the output for the year for which the computation is made; and in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds, and the sums other than dividends paid within the year on policy and annuity contracts, except as provided in the cases of mutual fire, mutual marine, and life insurance companies.

Third. The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, on the amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan, or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan, or trust company.

Fourth. All sums paid within the year for taxes imposed under the authority of the United States, or any State or Territory thereof, or imposed by the government of any foreign country.

**Art. 114.** Expenses of operation and maintenance shall include all expenditures for material, labor, fuel, and other items entering into the cost of the goods sold or inventoried at the end of the year, and all other expenses incurred in the operation of the business except such as are required by the act to be segregated in the return.

**Art. 115.** The cost of erecting permanent buildings on ground leased by a company is a proper deduction as a rental charge, provided such buildings are left on the ground at the expiration of the lease as a part of the rental payment. In such case the cost will be prorated

Interest accrued and paid within the year.

Interest on indebtedness secured by collateral.

Tax paid on guaranteed bonds not deductible.

Taxes paid within the year.

General expenses.

Cost of buildings on leased grounds.

according to the number of years constituting the term of the lease and the annual deduction will be made accordingly.

Expense, for-  
eign steamship  
companies.

**Art. 116.** General expenses, such as coal, ship stores, etc., of foreign steamship companies, shall be prorated as provided in the act for interest deductions in the case of foreign corporations.

Commissions to  
salesmen paid in  
stock.

**Art. 117.** Commissions allowed salesmen, paid in stock, may be deducted as expense if so charged on books at the actual value of such stock.

Additions and  
betterments.

**Art. 118.** Amounts expended in additions and betterments which constitute an increase in capital investment are not a proper deduction.

Compensation  
based on stock-  
holding not de-  
ductible.

**Art. 119.** Amounts paid as compensation or additional compensation to officers or employees, which amounts are based upon the stockholdings of such officers or employees, are held to be dividends, and although paid in lieu of salaries or wages, are not allowable deductions from gross income, for the reason that dividends are not deductible.

Gifts, pensions,  
or gratuities not  
deductible.

**Art. 120.** Amounts paid for pensions to retired employees, or to their families, or others dependent upon them, or on account of injuries received by employees, are proper deductions as "ordinary and necessary expenses"; gifts or gratuities to employees in the service of a corporation are not properly deductible in ascertaining net income.

Donations  
which are deduct-  
ible.

**Art. 121.** Donations made for purposes connected with the operation of the property when limited to charitable institutions, hospitals, or educational institutions, conducted for the benefit of its employees, or their dependents, shall be a proper deduction for ordinary and necessary expenses.

Reserves for  
insurance.

**Art. 122.** Funds set aside by a corporation for insuring its own property are not a proper deduction, but any loss actually sustained and charged to such fund may be deducted.

Materials and  
supplies.

**Art. 123.** In ascertaining expenses proper to be included in the deductions to be made under the item of "Expenses," corporations carrying materials and supplies on hand for use should include in such expenses the charges for materials and supplies only to the amount that the same are actually disbursed and used in operation and maintenance during the year for which the return is made.

**Art. 124.** The deduction for losses must be losses actually sustained during the year and not compensated by insurance or otherwise. It must be based upon the difference between the cost value and salvage value of property or assets, including in the latter value such amount, if any, as has, in the current or previous years, been set aside and deducted from gross income by way of depreciation, as elsewhere defined, and has not been paid out in making good such depreciation. Losses sustained during the year.

**Art. 125.** Bad debts, if so charged off the company's books, during the year, are proper deductions. But such debts, if subsequently collected, must be treated as income. Bad debts charged off.

**Art. 126.** Reserves to take care of anticipated or probable losses are not a proper deduction from gross income. Reserves not deductible.

**Art. 127.** Loss due to voluntary removal of buildings, etc., incident to improvements is either a proper charge to the cost of new additions or to depreciation already provided, as the facts may indicate, but in no case is it a proper deduction in determining net income, except as it may be reflected in the reasonable amount allowable as a deduction for depreciation of the new building. Any loss claimed because of the voluntary removal of a building is presumed to have been covered by previous depreciation charges; otherwise the amount of such loss will constitute a part of the cost of the new building. Loss due to removal of buildings.

**Art. 128.** All losses claimed arising from sale of capital assets should be arrived at in the manner prescribed in article 109, defining gains arising from sale of capital assets. Losses from sale of capital assets.

**Art. 129.** The deduction for depreciation should be the estimated amount of the loss, accrued during the year to which the return relates, in the value of the property in respect of which such deduction is claimed, that arises from exhaustion, wear and tear, or obsolescence out of the uses to which the property is put, and which loss has not been made good by payments for ordinary maintenance and repairs deducted under the heading of expenses of maintenance and operation. This estimate should be formed upon the assumed life of the property, its cost, and its use. Expenses paid in any one year in making good exhaustion, wear and tear, or obsolescence in respect of which any deduction for depreciation is claimed must not be included in the deduction for ex- Depreciation defined.  
Depreciation how determined.

pense of maintenance and operation of the property, but must be made out of accumulated allowances, deducted for depreciation in current and previous years.

Depreciation deductible, how treated.

**Art. 130.** The depreciation allowance, to be deductible, must be, as nearly as possible, the measure of the loss due to wear and tear, exhaustion, and obsolescence, and should be so entered on the books as to constitute a liability against the assets of the company, and must be reflected in the annual balance sheet of the company. The annual allowance deductible on this account should be such an amount as that the aggregate of the annual allowances deducted during the life of the property, with respect to which it is claimed, will not, when the property is worn out, exhausted, or obsolete, exceed its original cost.

Incidental repairs.

**Art. 131.** Incidental repairs which neither add to the value of the property nor appreciably prolong its life, but keep it in an operating condition, may be deducted as expenses.

Depreciation reserve.

**Art. 132.** Depreciation set up on the books and deducted from gross income can not be used for any purpose other than making good the loss sustained by reason of the wear and tear, exhaustion, or obsolescence of the property with respect to which it was claimed. If it develops that an amount has been reserved or deducted in excess of the loss by depreciation, the excess shall be restored to income and so accounted for.

Diversion of depreciation reserve

**Art. 133.** If any portion of the depreciation set up is diverted to any purpose other than making good the loss sustained by reason of depreciation, the income account for the year in which such diversion takes place must be correspondingly increased.

Shrinkage in book values.

**Art. 134.** Depreciation in book values of capital assets shall be treated in the return in the manner prescribed in the case of loss from the sale of capital assets (art. 109), but amounts arbitrarily charged off will not be allowed as deductions except so far as they represent an actual shrinkage in values which may be determined to have taken place during the year for which the return is made.

**Art. 135.** Where a corporation holds bonds which were purchased at a rate above par and said corporation shall proportionately reduce the value of those bonds on its books each year so that the book value shall be the redemption value of the bonds when such bonds become due and payable, the return of annual net income of the

corporation holding such bonds may show the depreciation on account of amortization of such bonds. The requirement is, however, that the amount carried to the amortization account each year shall be equitably proportioned with respect to the difference between the purchase price and the maturing value and the number of years to elapse until the bonds become due and payable. With respect to bond issues where such bonds are disposed of for a price less than par and are redeemable at par, it is also held that because of the fact that such bonds must be redeemed at their face value, the loss sustained by reason of their sale for less than their face value may be prorated by the issuing corporation in accordance with the life of the bond.

Amortization  
of bonds.

Loss to be pro-  
rated.

**Art. 136.** "Good will" represents the value attached to a business over and above the value of the physical property, and is such an entirely intangible asset that no claim for depreciation in connection therewith can be allowed.

Good will.

**Art. 137.** An allowance for depreciation of patents will be made on the following basis:

The deduction claimed for exhaustion of the capital assets as represented by patents to be made in the return of annual net income of a corporation for any given year shall be one-seventeenth of the actual cost of such patents reduced to a cash basis. Where the patent has been secured from the Government by a corporation itself, its cost would be represented by the various Government fees, cost of drawings, experimental models, attorneys' fees, etc. Where the patent has been purchased by the corporation for a cash consideration, the amount would represent the cost. Where the corporation has purchased a patent and made payment therefor in stocks or other securities, the actual cash value of such stocks or other securities at the time of the purchase will represent the cost of the patent to the corporation.

Depreciation on  
patents.

How deter-  
mined.

**Art. 138.** With respect to the depreciation of patents, one-seventeenth of the cost is allowable as a proper deduction each year until the cost of the patent has been returned to the corporation. Where the value of a patent has disappeared through obsolescence or any other cause and the fact has been established that the patent is valueless, the unreturned cash investment remaining in the patent may be claimed as a total loss and be deducted from gross income in the return of annual net income for

Deduction in  
case of obsoles-  
cence of patents.

the year during which the facts as to obsolescence or loss shall be established, such unreturned cash value to be fixed in accordance with the proportion that the number of years which the patent still has to run bears to the full patent period of 17 years.

Depreciation of timber land.

**Art. 139.** Corporations owning tracts of timber lands and removing therefrom and selling, or otherwise disposing of the timber will be permitted to deduct from their gross income on account of depreciation or depletion an amount representing the original cost of such timber, plus any carrying charges that may have been capitalized or not deducted from income. The purpose of the depreciation or depletion deduction is to secure to the corporation, when the timber has been exhausted, an aggregate amount which, plus the salvage value of the land, will equal the capital actually invested in such timber and land.

Deductions to cease, when.

**Art. 140.** When an amount sufficient to return this capital has been secured through annual depreciation deductions no further deduction on this account shall be allowed. For the purpose of increasing the deduction on this account no arbitrary increase in values shall be made, unless such increase in value shall be returned as income for the year in which the increase in value was taken up on the books.

Depreciation of natural deposits.

**Art. 141.** The depreciation of coal, iron, oil, gas, and all other natural deposits must be based upon the actual cost of the properties containing such deposits. In no case shall the annual deduction on this account exceed 5 per cent of the gross value at the mine (well, etc.) of the output for the year for which the computation is made.

Definition of "gross value" at the mine.

**Art. 142.** The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some place other than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil,

or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

If the rate of 5 per cent per annum shall return to the corporation its capital investment prior to the exhaustion of the deposits, the rate on which the annual deduction for depletion of deposits is based must be lowered in accordance with the estimated number of years it will take to exhaust the estimated reserves.

In case the reserves shall be in excess of the estimates, no further deduction on account of depletion shall be made where the capital investment has been returned to the corporation.

**Art. 143.** In addition to the deduction to measure the loss due to depletion, the corporation will be allowed the usual depreciation of its machinery, equipment, etc., such depreciation to be determined on the basis of the cost and estimated life of the property with respect to which the depreciation is claimed.

**Art. 144.** Corporations leasing oil or gas territory shall base their depletion deduction upon the cost of the lease, and not upon the estimated value, in place, of the oil or gas.

**Art. 145.** Corporations operating mines (including oil or gas wells) upon a royalty basis only can not claim depreciation because of the exhaustion of the deposits.

**Art. 146.** Unearned increment will not be considered in fixing the value on which depreciation shall be based.

**Art. 147.** (a) Under item 5 (a) of the return form, the insurance company may take credit for all losses actually sustained during the year and not compensated by insurance or otherwise, including losses resulting from the sale or maturity of securities or other assets, as well as decreases by adjustment of book values of securities, in so far as such decreases represent actual declines in values which have taken place during the year for which the return is made; also losses from agency balances, or other accounts, charged off as worthless; losses by defalcation; premium notes voided by lapse, when such notes shall have been included in gross income. This item will not, however, include payments on policy contracts.

(b) In this item may be deducted actual losses sustained within the year by reason of the depreciation of property, which shall have been so entered on the books of the company as to constitute a liability against its assets. An arbitrary depreciation deduction claimed in

the return, but not evidenced by book entry, can not be allowed.

Policy con-  
tracts paid.

(c) In this item credit will be taken for all death, disability, or other policy claims, including fire, accident, and liability losses, matured endowments, annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. Salvage need not be included in gross income if deducted in ascertaining the net amount paid for losses under policy contracts. Reserves covering liabilities for losses incurred, reported, resisted, adjusted or unadjusted but not paid, can not be deducted from gross income under this or any other item of the return.

Losses incurred  
and unpaid not de-  
ductible.

Additions to  
reserves required  
by law, how de-  
termined.

(d) The reserve funds of insurance companies to be considered in computing the deductible net addition to reserve funds are held to include only the reinsurance reserve and the reserve for supplementary contracts required by law in the case of life insurance companies, the unearned premium reserves required by law in the case of fire, marine, accident, liability, and other insurance companies, and only such other reserves as are specifically required by the statutes of a State within which the company making the return is doing business. The reserves used in computing the net addition must not include the reserve on any policies the premiums on which have not been accounted for in gross income. For the purpose of this deduction, the net addition is the excess of the reserve at the end of the year over that at the beginning of the year and may be based upon the highest authorized reserve required by any State in which the company making the return does business.

Assessment  
company re-  
serves.

In the case of assessment insurance companies, the actual deposits of sums with the State or Territorial officers pursuant to law, as additions to guaranty or reserve funds, shall be treated as payments required by law to reserve funds.

Mutual marine insurance companies will deduct under item 5(e) amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof.

What consti-  
tutes allowable  
interest deduc-  
tion.

**Art. 148.** The amount of interest accrued and paid within the year by a corporation on an amount of bonded or other indebtedness not in excess of *one-half* of the *sum* of the interest-bearing indebtedness *and* the paid-up



capital stock outstanding at the close of the year, or, if no capital stock, on the amount of interest-bearing indebtedness not exceeding the amount of capital employed in the business at the close of the year, constitutes an allowable deduction; that is, the maximum principal, upon which interest for the purpose of this deduction, can be computed must not exceed, in the one case, one-half of the sum of the interest-bearing indebtedness and the capital stock outstanding at the close of the year, or, in the other case, must not exceed the amount of capital employed in the business at the close of the year. The interest to be deductible must have been computed on the proper principal at the contract rate and must have been actually paid within the year.

Interest paid pursuant to contract on an indebtedness secured by mortgage on real estate occupied and used by a corporation, in which real estate the corporation has no equity or to which it is not taking title is an allowable deduction from gross income as a rental charge, payment of which is required to be made as a condition to the continued use and possession of the property. If, however, the corporation has an equity in or is purchasing for its own use the real estate upon which such mortgage is a prior lien, the indebtedness will be held to be indebtedness of the corporation within the meaning of the law and the interest paid on such mortgage will be deductible only to the extent that it, with interest on other obligations of the corporation, is within the limit fixed by the act.

Interest paid as rental deductible.

Interest on mortgage on real estate in which corporation has equity not deductible.

**Art. 149.** In the case of banks and banking associations, loan or trust companies, interest paid within the year on deposits, or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from the gross income of such corporations.

Banks and banking associations.

**Art. 150.** Interest paid on indebtedness, wholly secured by collateral the subject of sale in ordinary business of such corporations, is also deductible to the full amount of such interest paid. This contemplates that the entire interest received on the collateral securing such indebtedness shall be included in the gross income returned.

Interest paid on indebtedness.

**Art. 151.** Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during the year, provided the aggregate

Different rates of interest.

amount of such indebtedness on which the interest is paid does not exceed the limit prescribed by law, and in case the indebtedness is in excess of the amount on which interest may be legally deducted the indebtedness bearing the highest rate may be first considered in computing the interest deduction and the balance, if any, will be computed upon the indebtedness bearing the next lower rate actually paid, and so on until interest on the maximum principal allowed has been computed.

Taxes deductible.

**Art. 152.** All sums paid within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country, are deductible from gross income.

Taxes not deductible.

**Art. 153.** Taxes paid for local benefits are not deductible. Taxes paid by a corporation pursuant to a contract guaranteeing that the interest payable on its bonds or other indebtedness shall be free from taxation are not deductible.

Tax on capital stock of banks.

**Art. 154.** Banks paying taxes assessed against their stockholders because of their ownership of the shares of stock issued by such banks can not deduct the amount of taxes so paid in making their return for the income tax imposed by this act unless specially authorized to do so by the laws of the State in which they do business. The shares of stock are the property of the stockholders, and such holders are primarily liable for the tax.

Import duties.

**Art. 155.** Import duties or taxes are not deductible under the item of taxes paid during the year, but should be included in arriving at the cost of goods under item No. 4 (expenses).

Reserves for taxes.

**Art. 156.** Reserves for taxes can not be allowed, as the law specifically provides that only such sums as are paid within the year for taxes shall be deducted.

Foreign corporations subject to tax.

**Art. 157.** Foreign corporations shall be subject to the normal tax of 1 per cent computed upon the net income received by or accruing to such corporations from business transacted and capital invested in this country. For the purpose of the tax the net income of such foreign organizations shall be ascertained by deducting from the gross income arising, received, or accruing from business done and capital invested in this country the deductions enumerated in the act, which deductions shall be limited

Deductions confined to expenses of business done in the United States.

to expenditures or charges actually incurred in the maintenance and operation of the business transacted and capital invested in the United States or, as to certain charges,

such proportion of the aggregate charges as the gross income from business done and capital invested in the United States bears to the aggregate income within and without the United States. In other words, the deductions from the gross income of a foreign corporation doing business in this country should, as nearly as possible, represent the actual expenses and authorized charges incident to the business done and capital invested in this country and must not comprehend, either directly or indirectly, any expenditures or charges incurred in the transaction of business or the investment of capital without the United States.

**Art. 158.** It is immaterial whether the deductions except for taxes and losses are evidenced by actual disbursements in cash, or whether evidenced in such other way as to be properly acknowledged by the corporate officers and so entered on the books of the corporation as to constitute a liability against the assets of the corporation making the return. Deductions for taxes, however, should be the aggregate of the amounts actually paid, as shown on the cash book of the corporation. Deductions for losses should be confined to losses actually sustained and charged off during the year and not compensated by insurance or otherwise. Except as the same may be modified by the provisions of the act, limiting certain deductions and authorizing others, the net income as returned for the purpose of the tax should be the same as that shown by the books or the annual balance sheet.

How deductions shall be evidenced.

**Art. 159.** The tax imposed upon the income of corporations, whether domestic or foreign, shall be computed upon the net income, ascertained in the manner hereinbefore indicated, except that for the year ending December 31, 1913, the income tax will be imposed upon the net income accrued from March 1 to December 31, both dates inclusive, and such amount of net income is ascertained by taking five-sixths of the entire net income for said calendar year.

Tax on net income of corporations for the year 1913.

**Art. 160.** The special excise tax on corporations provided for in the act of August 5, 1909, is reaffirmed and made operative and effective as to the period from January 1 to February 28, 1913, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations for said year, and the

Special excise tax on corporations.

net income shall be ascertained in accordance with the provisions of the income-tax law.

Return and assessment.

For the year 1913 it shall be necessary to make but one return and assessment for all taxes imposed in the income-tax law upon corporations, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in section 2 of the act of October 3, 1913.

No specific exemption allowable as a deduction.

Under the present law, no specific exemption is allowable, as was the case under the corporation-tax law; hence the assessment will be based upon the entire net income of the corporation arising or accruing to it from all sources during the entire year for which the return is made.

Inventories.

**Art. 161.** In order that certain classes of corporations may arrive at their correct income, it is necessary that an inventory, or its equivalent, of materials, supplies, and merchandise on hand for use or sale at the close of each calendar year shall be made in order to determine the gross income or to determine the expense of operation.

Physical inventory.

A physical inventory is at all times preferred, but where a physical inventory is impossible and an equivalent inventory is equally accurate, the latter will be acceptable.

An equivalent inventory is an inventory of materials, supplies, and merchandise on hand taken from the books of the corporation.

Corporations, classes of.

**Art. 162.** For the purpose of this tax, corporations are divided into five classes, as follows:

Class A.

Class A. *Financial and commercial*, including banks, banking associations, trust companies, guaranty and surety companies, title insurance companies, building associations (if for profit), and insurance companies, not specifically exempt.

Class B.

Class B. *Public service*, such as railroad, steamboat, ferryboat, and stage-line companies; street-railway companies; pipe-line, gas-light, and electric-light companies; express companies, telegraph and telephone companies.

Class C.

Class C. *Industrial and manufacturing*, such as mining, oil and gas producing companies, lumber and coke companies; rolling mills; foundry and machine shops; sawmills; flour, woolen, cotton, and other mills; manufacturers of cars, automobiles, elevators, agricultural implements, etc.; manufacturers or refiners of sugar,

molasses, sirups, or other products; ice and refrigerating companies; slaughterhouse, tannery, packing, or canning companies; printing and publishing companies, etc.

Class D: *Mercantile*, including all dealers (not otherwise classed as producers or manufacturers) in coal, lumber, grain, produce, and all goods, wares, and merchandise.

Class D.

Class E: *Miscellaneous*, such as architects, contractors, hotel, theater, or other companies or associations not otherwise classified.

Class E.

**Art. 163.** Under the authority conferred by this act, forms of return have been prescribed, in which the various items specified in the law are to be stated. Blank forms of this return will be forwarded to collectors and should be furnished to every corporation, not expressly exempted, on or before January 1 of each year, in the case of corporations making their returns for the calendar year, or on or before the first day of the next fiscal year in the case of corporations making returns for their fiscal year. Failure on the part of any corporation, joint-stock company, association, or insurance company liable to this tax to receive a prescribed blank form will not excuse it from making the return required by law, or relieve it from any penalties for failure to make the return in the prescribed time. Corporations not supplied with the proper forms for making the return should make application therefor to the collector of internal revenue in whose district is located its principal place of business in ample time to have its return prepared, verified, and filed with the collector on or before the last due date as hereinafter defined. Failure in this respect subjects it not only to 50 per cent additional tax, but to the specific penalty imposed for delinquency. Each corporation should carefully prepare its return so as to fully and clearly set forth the data therein called for. Imperfect or incorrect returns will not be accepted as meeting the requirements of the law.

Form of return.

**Art. 164.** To any sum or sums due and unpaid after the date for payment stated in the notice and demand issued by the collector there shall be added the sum of 5 per cent of the amount so unpaid, and interest at the rate of 1 per cent per month. To the amount assessable on the basis of the net income there shall be added 50 per cent in case of refusal or neglect of a corporation to make a return or 100 per cent in case of a false or fraud-

Penalties imposed by act.

ulent return. For refusal or neglect to make a return within the prescribed time, or for a false or fraudulent return, the corporation so offending shall be liable to a specific penalty not exceeding \$10,000. Any person divulging unlawfully any information whatever disclosed by a return shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

Fraudulent re- turns. Any person or any officer of any corporation required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by section 2, act of October 3, 1913, shall be guilty of a misdemeanor and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Fiscal year; how established. Art. 165. The Federal income-tax law authorizes corporations, joint-stock companies, etc., under certain conditions to make their returns on the basis of an established "fiscal year" or consecutive 12-months period, which may be other than the calendar year.

Pursuant to this provision the following instructions are issued for the guidance of collectors and other interested parties:

May designate day for closing of fiscal year and must give at least 30 days' notice to collector of the day so designated. Any corporation, joint-stock company, or association, or any insurance company subject to the tax imposed by this act may, at its option, have the tax payable by it computed upon the basis of the net income arising or accruing from all sources during its fiscal year, provided that it shall designate the last day of the month selected as the month in which its fiscal year shall close as the day of the closing of its fiscal year, and shall, not less than 30 days prior to the date upon which its annual return is to be filed give notice, in writing, to the collector of internal revenue of the district in which its principal place of business is located, of the day it has thus designated as the closing of such fiscal year.

Illustration of fiscal year. Art. 166. In pursuance of this provision, a corporation or like organization subject to this tax may, for example, designate the 30th day of September as the day for the closing of its fiscal year, whereupon its return of annual net income shall be filed with the collector of internal revenue of the district in which its principal place of business is located not later than 60 days after the close

of its said proposed fiscal year; that is to say, on or before the 29th day of November next succeeding.

The date of the closing of the fiscal year having been designated, notice thereof must be given to the collector not less than 30 days prior to the last day of such 60-day period. In the case just instanced the notice must be given not later than October 29.

If such designation (September 30, 1913) had been made and notice given, as hereinbefore indicated, as to the closing of the fiscal year 1913, the corporation would be authorized to make its return and have the tax payable by it computed upon the basis of the net income arising or accruing to it during the period from January 1 to September 30, 1913, both dates inclusive.

**Art. 167.** Collectors of internal revenue receiving notices of the selection and designation of the "fiscal years," as above indicated, will make record of the same, recording, (a) the name of the corporation or like organization, (b) the date when notice was given, (c) the day designated for the closing of the fiscal year, and (d) the date when the return under such designation must be filed, which must be, as above stated, not later than the last day of the 60-day period next following the day designated as the close of the fiscal year.

Collectors must make a record of the designation of the "fiscal year."

**Art. 168.** If it shall appear that for the year 1913 the notice was given within the prescribed time—that is, within 30 days of the last day of the 60-day period—the 1913 return may be made as of the fiscal year so established; otherwise it will be made on the basis of the calendar year until such time as the designation shall be duly made and notice thereof properly given.

Unless notice was given within prescribed time, calendar year will govern.

**Art. 169.** The designation and notice can not be retroactive; that is to say, if a corporation now designates April 30, 1914, as the date of the closing of its fiscal year and gives notice of such designation, it would not be authorized to make a return for the four months ended April 30, 1913, and then for the fiscal year ended April 30, 1914, nor would it be authorized to make one return covering the entire 16 months ended April 30, 1914. In the case of such corporation the return for the year must be made for the calendar year ended December 31, 1913, and then, assuming that designation and notice had been properly made and given, it may make a return for the four months ended April 30, 1914, and thereafter

Designation and notice can not be retroactive.

the return will be made on the basis of the fiscal year so established.

Where fiscal year is not properly established, returns must be made for calendar year.

**Art. 170.** In all cases where a fiscal year is not established as above prescribed returns must be made on the basis of the calendar year, in which case such returns must be filed on or before the 1st day of March next succeeding such calendar year. Such returns in either case provided must be verified under oath or affirmation of its president or other principal officer, and its treasurer or assistant treasurer; that is to say, by two different persons acting in the official capacity indicated.

Returns made on basis of fiscal year not so designated can not be accepted.

**Art. 171.** If it shall appear in any case that returns have been made to the collector on the basis of a fiscal year not designated as above indicated, the corporations making such returns will be advised that such returns can not be accepted, but must be made to cover the business of the calendar year.

Returns for 1913 must be made on new forms.

**Art. 172.** Returns made under this act and pursuant to these instructions must be made on the new forms prescribed by this department.

The forms heretofore in use, under the special excise tax law, can not be used for making returns for either the fiscal or calendar year 1913.

Extension not to exceed 30 days.

**Art. 173.** An extension of time within which a return may be filed can in no case exceed 30 days from the date on which the return is due and can be granted only upon written application to the collector, and in case of sickness or absence of an officer whose signature to the return is required, such application to be made prior to the expiration of the period for which the extension is desired.

Returns properly mailed in time to reach collector not subject to penalty under certain conditions.

**Art. 174.** If a return is made and placed in the United States mails, properly addressed, and postage paid, in ample time, in due course of mails, to reach the office of the collector or deputy collector on or before the last due date, no penalty will be held to attach should the return not be actually received by such officer until subsequent to that date.

Last due date defined.

**Art. 175.** "Last due date," as hereinbefore used, is construed to mean the last day upon which a return is required to be filed in accordance with the provisions of the law, or the last day of the period not exceeding 30 days covered by an extension of time granted by the collector.

When due date falls on Sunday or legal holiday.

**Art. 176.** When the due date as above defined falls on Sunday or on a legal holiday, the last due date will



be held to be the day next following such Sunday or legal holiday and the return should be made to the collector not later than such following day, or, if placed in the mails, it should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is thus made due in the office of the collector.

**Art. 177.** All assessments against corporations, etc., making returns for the calendar year are required to be made and the several corporations, joint-stock companies, etc., notified of the amount for which they are liable on or before the 1st of June of each successive year, and said assessments shall be paid on or before the 30th day of June of such year. In the case of corporations making returns for the fiscal year, the assessments shall be made and notice given on or before the expiration of 90 days from the date when the returns were required to be filed, and the taxes assessed against such corporations, etc., shall be paid within 120 days after the date upon which the returns were required to be filed. In case of refusal or neglect by a corporation, etc., to make a return, and in case of false or fraudulent return, the commissioner, upon the discovery thereof within three years after such returns are due, shall make a return upon information obtained in the manner provided in the act, and the assessment made on the basis of such return shall be paid immediately upon notice and demand given by the collector.

Upon failure to pay the tax when due and for 10 days after notice and demand, a penalty of 5 per cent of the amount of the tax unpaid and interest at the rate of 1 per cent per month until paid shall be added to the amount of such tax.

**Art. 178.** When the assessments shall have been made, the returns shall be filed in the office of the commissioner and shall constitute public records, subject to inspection upon the order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President. Copies of returns on file in the Commissioner's office are not permitted to be sent to any person, except to the corporation itself or to its duly authorized attorney.

**Art. 179.** Upon request of the governor of a State which imposes a general income tax, the proper officers of such State may have access to the returns filed by corpo-

Assessment and payment of taxes.

For calendar year.

Notice of assessment.

Failure to pay tax when due.

Returns are public records, subject to inspection upon order of the President.

Information to States which impose income taxes.

rations doing business in such States, or to an abstract thereof showing the name and income of such corporations, etc., at such times and in such manner as the Secretary may prescribe. In no case are the original returns to be removed from the office of the commissioner, except upon order and by direction of the Secretary of the Treasury or the President.

Certified copies of returns.

**Art. 180.** At the request of the Attorney General, or by direction of the Secretary of the Treasury, certified copies of returns may be made and delivered to the United States district attorneys for their use as evidence in the prosecution or defense of suits in which the collection or legality of the tax assessed on the basis of such returns is involved, or in any suit to which the United States Government and the corporation, etc., making the return are parties and in which suit such certified copies would constitute material evidence.

Penalty for giving information in regard to returns.

**Art. 181.** The disclosure by any collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person of any information whatever contained in or set forth by any return of annual net income made pursuant to this act is, by the act, made a misdemeanor, and is punishable by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government.

Bookkeeping.

**Art. 182.** No particular system of bookkeeping or accounting will be required by the department. However, the business transacted by corporations must be so recorded that each and every item set forth in the return of annual net income may be readily verified by an examination of the books of account.

Books of account best guide to income.

**Art. 183.** The books of a corporation are assumed to reflect the facts as to its earnings, income, etc. Hence they will be taken as the best guide in determining the net income upon which the tax imposed by this act is calculated. Except as the same may be modified by the provisions of the law, wherein certain deductions are limited, the net income disclosed by the books and verified by the annual balance sheet, or the annual report to stockholders, should be the same as that returned for taxation.

Omitted taxes may be assessed.

**Art. 184.** In cases wherein corporations have neglected or refused to make returns, and in cases wherein returns

made are found, upon investigation or otherwise, to be false or fraudulent, the commissioner may, upon discovery thereof, at any time within three years after said return is due, make return upon the information obtained in the manner provided in the act, and the tax so discovered to be due, together with the additional tax prescribed, shall be assessed, and the amount thereof shall be paid immediately upon notice and demand.

**Art. 185.** Corporations coming within the terms of this law are subject to the normal tax only; that is, a tax computed at a level rate of 1 per cent of their entire net income regardless of the amount of such net income.

Corporations  
subject to normal  
tax.

**Art. 186.** For the purpose of verifying any return, made pursuant to this act, the Commissioner of Internal Revenue may, by any duly authorized revenue agent or deputy collector, cause the books of such corporation to be examined, and if such examination discloses that the corporation is liable to tax in addition to that previously assessed, or assessable, the same shall be assessed and shall be payable immediately upon notice and demand. For the purpose of such examination, the books of corporations shall be open to the examining officer, or shall be produced for this purpose upon summons issued by any properly authorized officer.

Examination of  
books.

## PART 4.

### ASSESSMENT AND COLLECTION.

Taxes due to be reported on assessment lists.

**Art. 187.** All income taxes found to be due will be reported by collectors on their assessment lists, Form 23-A in the case of corporations, and on Form 23-B in the case of individuals and withholding agents.

Names to be listed in alphabetical order.

**Art. 188.** The names of corporations subject to tax will be listed on Form 23-A, according to their designated class, and in alphabetical order as to each class. Names of individuals subject to tax will be listed on Form 23-B, alphabetically, without reference to class or rate of tax. Following such names there will be listed, alphabetically,

Names of withholding agents, how to be listed.

the names of all withholding or licensed collecting agents, and the *aggregate* amount of tax withheld by each, as shown by the annual returns rendered by them. An assessment against each person, firm or company, from whose income the tax has been so withheld, will be unnecessary in such cases.

Assessment against withholding agents to be deferred until annual reports are received.

**Art. 189.** To avoid, as far as possible, the assessment of taxes as to which claims for exemption or deduction may be filed under article 33, collectors will delay reporting for assessment taxes remaining in the hands of withholding agents, until the annual reports of such agents, which must be filed not later than March 1 in each year, are received.

Returns, when to be made.

**Art. 190.** Returns of withholding agents (including those of licensed collecting agents) as to interest payments shall be made monthly and returns containing summaries of said monthly returns shall be made annually. (See Part 2, A, B, and C.) Returns of individuals (see Part 1), corporations (see Part 3), and withholding agents, withholding tax on wages, salaries, rents, etc. (see Part 2, D), and fiduciaries acting as withholding agents (see Part 2, E) shall be made annually. All monthly returns are required to be made on or before the 20th day of each month for the preceding month. All annual returns are required to be made on or before the 1st day of March in each year, except in the case of

corporations which have given due notice of the termination of their fiscal year, in which cases the prescribed return is to be filed within 60 days after the termination of such fiscal year.

**Art. 191.** Corporations which are subject to the special excise tax on income received during the months of January and February, 1913, may, under the provisions of section 4, paragraph S, of the act of October 3, 1913, include such income, as also the income taxable under said act, in one return for the year 1913. In each such case one assessment only will be made.

Corporations may include in returns for year 1913 income subject to special excise tax.

**Art. 192.** All returns of income, whether of individuals or corporations, should be forwarded with the assessment list rendered. Where in any case the collector has reason to believe that any return rendered is false or fraudulent, he will prepare and retain in his office a copy of such return, and will note on the original and under the head of "Remarks" of his assessment list the words "Investigation pending." He will in all such cases make his investigation in the manner prescribed in section 3173, Revised Statutes, and paragraph D of said act of October 3, 1913; and he will report the results of his investigation to the Commissioner of Internal Revenue, referring to the list, folio, and line on which the assessment was reported.

Returns of income to be forwarded with assessment lists.

False or fraudulent returns.

**Art. 193.** Monthly and annual returns of withholding agents (including those of licensed agents) as to interest payments and the annual returns of withholding agents withholding tax on wages, salaries, etc., will be made in duplicate, one copy of which will be retained by the collector in his office and one copy transmitted to the Commissioner of Internal Revenue. Annual returns of withholding agents (including those of licensed agents) as to interest payments, and returns of withholding agents as to wages, salaries, etc., and of fiduciaries will be forwarded by the collector with his list, Form 23-B, on which the tax withheld is reported for assessment.

Certain returns of withholding agents to be in duplicate.

**Art. 194.** All certificates of exemption or deductions, filed by or on behalf of persons subject to tax, will be forwarded by the collector as soon as received; and all such certificates, reports, and returns, before being transmitted to the commissioner, will have stamped thereon the name and number of the district; will be arranged (unfolded) in alphabetical order and, in the case of corporations, according to the designated class to which they belong. Care should be taken to have all such papers,

Certificates and returns to be forwarded as soon as received.

when so arranged, carefully secured by cord or other fastening, so as to insure their receipt in like order. This is especially necessary in view of the large number of like papers which will be forwarded from the various districts.

Reports and returns to be at once examined by collectors.

**Art. 195.** In order that assessment lists may be promptly prepared and forwarded, collectors will see that all reports and returns to be listed are examined as received, and that no delay occurs in this branch of the work. Special diligence in this matter is necessary, as sufficient time must be given for the reexamination of such returns in the commissioner's office before assessment is made. The forwarding of assessment lists, however, should in no case be delayed, beyond the time allowed, on account of unexamined returns, as such returns can be examined and reported on a subsequent list. As the law limits the time in which these assessments are to be made and notice of assessment given, collectors will assign to this work all available force in their respective offices.

Assessment lists to be prepared and forwarded without delay.

Notice to be sent to delinquents.

**Art. 196.** Where the required returns are not filed within the prescribed time, either by individuals or corporations, notice on Form 1045, should in each case be sent to the delinquent. (For authorized extension of time, see articles 23 and 173.)

Notice of assessment.

**Art. 197.** When assessment has been made, collectors will, on receipt of their returned lists, at once issue preliminary notices of assessment (Form 647), and where in any case the tax assessed is not paid on or before the 30th day of June, or in case of corporations designating their own fiscal year, within 120 days following the date on which the return should have been filed, notice and demand (Form 17) should be at once issued, and unless the tax in such case is paid within 10 days after the service of such notice, general demand for tax, penalty, and interest (Form 21) should at once be issued. Immediate notice and demand (Form 17) will, however, be served in case of failure to file the required return within the statutory period.

Demand for tax, penalty, and interest.

Notice of assessment to be sent immediately on return of list.

**Art. 198.** Pending assessment on returns forwarded to the commissioner, collectors will have prepared the necessary notices of assessment, with properly addressed envelopes, to be used immediately on return of their assessment lists.

Art. 199. Statements of payment, abatement, and out-<sup>Payments, abatements, and outstanding bal-</sup>standing balances of such assessed taxes will be rendered <sup>ances.</sup> monthly by collectors on *special* Form 325. Such statements will be prepared in the same manner as required in the case of assessments on the *regular* Form 23, except that in Statement III the outstanding balances on the various lists will be reported in aggregate only. Items constituting such balances, however, will <sup>Outstanding</sup> be carded by collectors, but only as to such as were <sup>balances to be</sup> assessed during the month for which the return is rendered, thus avoiding detailed statements each month of <sup>carded by col-</sup>outstanding balances previously reported. A separate card (Form 1020) will be used for each such item; and all cards so prepared each month should be arranged alphabetically, and so forwarded by the collector with his report on special Form 325.

W. H. OSBORN,

*Commissioner of Internal Revenue.*

Approved:

W. G. McADOO,

*Secretary of the Treasury.*