

U. S. TREASURY DEPARTMENT
BUREAU OF INTERNAL REVENUE

REGULATIONS 42

(1942 EDITION)

RELATING TO

TAXES ON SAFE DEPOSIT BOXES,
TRANSPORTATION OF OIL BY PIPE LINE,
TELEPHONE, TELEGRAPH, RADIO AND
CABLE MESSAGES AND SERVICES, AND
TRANSPORTATION OF PERSONS

UNDER

CHAPTERS 12 AND 30 OF THE
INTERNAL REVENUE CODE,
AS AMENDED

(PART 130 OF TITLE 26
CODIFICATION OF FEDERAL REGULATIONS)



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TITLE 26—INTERNAL REVENUE

CHAPTER I, SUBCHAPTER C

PART 130—REGULATIONS RELATING TO THE TAXES ON THE USE OF SAFE DEPOSIT BOXES; TRANSPORTATION OF OIL BY PIPE LINE; TELEPHONE, TELEGRAPH, RADIO, AND CABLE MESSAGES OR DISPATCHES; LEASED WIRE, AND WIRE AND EQUIPMENT SERVICES; LOCAL TELEPHONE SUBSCRIBERS' SERVICES; AND TRANSPORTATION OF PERSONS*

SUBPART A.—INTRODUCTORY

SECTION 130.0 SCOPE OF REGULATIONS.—These regulations deal with the excise taxes—

(a) On the use of safe deposit boxes, imposed by Chapter 12 of the Internal Revenue Code, as amended by section 532 of the Revenue Act of 1941.

(b) On the transportation of oil by pipe line, imposed by Chapter 30, Subchapter A, of the Internal Revenue Code, as amended by sections 502 and 521(a)(22) of the Revenue Act of 1941.

(c) Imposed by Chapter 30, Subchapter B, of the Internal Revenue Code, as amended by section 548 of the Revenue Act of 1941, with respect to—

(1) Telephone and radio telephone messages and conversations;

(2) Telegraph, cable, and radio dispatches and messages;

(3) Leased wire, teletypewriter, and talking circuit special service;

(4) Wire and equipment services (including stock quotation and information services, burglar alarm and fire alarm service, and all similar services);

(5) Local telephone service rendered to subscribers.

*Sections 130.0 to 130.80 are issued under the authority contained in sections 1855, 3472, and 3791 of the Internal Revenue Code (53 Stat. 206, 423, and 467, 26 U. S. C., 1940 ed., 1855, 3472, and 3791), and follow the statutory provisions to which they, respectively, refer.

(d) Imposed by Chapter 30, Subchapter C, of the Internal Revenue Code, as added by section 554(b) of the Revenue Act of 1941, with respect to—

(1) Transportation of persons by rail, motor vehicle, water, or air;

(2) Seating and sleeping accommodations furnished in connection with transportation of persons by rail, motor vehicle, water, or air.

The regulations with respect to the imposition, manner of application, and computation of tax are set forth in Subparts B to F, inclusive. The regulations relating to the return and collection of tax and the imposition of penalties and related matters are contained in Subpart G.

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

SUBPART B.—DEFINITIONS

SEC. 3797. DEFINITIONS.

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

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

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

(3) **CORPORATION.**—The term “corporation” includes associations, joint-stock companies, and insurance companies.

* * * * *

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

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

(11) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(12) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of Internal Revenue.

(13) **COLLECTOR.**—The term “collector” means collector of internal revenue.

(14) **TAXPAYER.**—The term “taxpayer” means any person subject to a tax imposed by this title.

* * * * *

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

* * * * *

SEC. 130.1 MEANING OF TERMS.—As used in these regulations—

(a) *General.*—The terms defined in the applicable provisions of law shall have the meanings so assigned to them.

(b) *Political subdivision.*—The term “political subdivision” means a county, city, town, village or other municipality.*

SUBPART C.—SAFE DEPOSIT BOXES

SEC. 1850. TAX (AS AMENDED BY SECTION 532, PART III, TITLE V OF THE REVENUE ACT OF 1941).

(a) **RATE.**—There shall be imposed a tax equivalent to 20 per centum of the amount collected for the use of any safe deposit box.

(b) **BY WHOM PAID.**—The tax imposed by subsection (a) shall be paid by the person paying for the use of the safe deposit box.

SEC. 1851. COLLECTION OF TAX BY LESSOR.

(a) **REQUIREMENT.**—Every person making any collections specified in subsection (a) of section 1850 shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box.

* * * * *

SEC. 1857. DEFINITION OF SAFE DEPOSIT BOX.

For the purposes of this chapter any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, used for the safe-keeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable personal property, shall be regarded as a safe deposit box.

SEC. 536. EFFECTIVE DATE OF PART III. (REVENUE ACT OF 1941.)

The amendments made by this Part shall be applicable only with respect to the period beginning with October 1, 1941, and the rates specified in section 1650(a) * * * of the Internal Revenue Code shall not apply with respect to such period. This Part shall take effect on October 1, 1941.

SEC. 130.10 EFFECTIVE PERIOD.—The tax on the use of safe deposit boxes was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The rate of tax was increased from 10 per cent to 11 per cent by section 1650(a), as added by section 210 of the Revenue Act of 1940, effective for a period of five years beginning July 1, 1940. Such increased rate was superseded and the rate of tax was again increased, effective October 1, 1941, by the further amendment of section 1850(a) by section 532 of the Revenue Act of 1941.*

SEC. 130.11 SCOPE OF TAX.—Section 1850 as amended by section 532 of the Revenue Act of 1941 imposes a tax upon amounts collected for the use of safe deposit boxes.

The tax does not apply to amounts collected for rental of open space in a general storage vault.*

SEC. 130.12 DEFINITION OF SAFE DEPOSIT BOX.—The term “safe deposit box” includes any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, such as is customarily leased by a bank, trust company, security dealer, investment company, or storage company, for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, important papers of any kind, or other forms of valuable personal property.*

SEC. 130.13 LIABILITY FOR TAX.—The tax is payable by the person paying for the use of the safe deposit box. Every person receiving payments for the use of a safe deposit box is required to collect the tax from the person paying for such use, and must return and pay over the taxes so collected in accordance with the provisions of sections 130.72 and 130.74.*

SEC. 130.14 RATE AND COMPUTATION OF TAX.—With respect to the period beginning October 1, 1941, the tax is imposed at the rate of 20 per cent of the amount collected for the use of any safe deposit box.

The tax is measured strictly by the amount collected for the use of the safe deposit box without regard to the period for which the payment is made. Thus, the tax at the increased rate of 20 per cent applies to the amount collected on or after October 1, 1941, even though such amount represents a payment, whether in whole or in part, for use of a safe deposit box prior to October 1, 1941.

Where during the term of the contract or agreement for the use of a safe deposit box, such use is relinquished and a new agreement is made for the use of another safe deposit box, additional tax is due upon any further amount collected under the new agreement.*

SUBPART D.—TRANSPORTATION OF OIL BY PIPE LINE

SEC. 3460. TAX (AS AMENDED BY SECTIONS 502 AND 521(a) (22) OF THE REVENUE ACT OF 1941).

(a) COMPUTATION AND PAYMENT.—There shall be imposed upon all transportation of crude petroleum and liquid products thereof by pipe line—

(1) A tax equivalent to $4\frac{1}{2}$ per centum of the amount paid for such transportation, to be paid by the person furnishing such transportation.

(2) In case no charge for transportation is made, either by reason of ownership of the commodity transported or for any other reason, a tax equivalent to $4\frac{1}{2}$ per centum of the fair charge for such transportation, to be paid by the person furnishing such transportation.

(3) If (other than in the case of an arm's length transaction) the payment for transportation is less than the fair charge therefor, a tax equivalent to $4\frac{1}{2}$ per centum of such fair charge, to be paid by the person furnishing such transportation.

(b) FAIR CHARGE DEFINED.—For the purposes of this section, the fair charge for transportation shall be computed—

(1) from actual bona fide rates or tariffs, or

(2) if no such rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or

(3) if no such rates or tariffs exist, then on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. (REVENUE ACT OF 1941.)

* * * * *

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

SEC. 130.20 EFFECTIVE PERIOD.—The tax on the transportation of crude petroleum and liquid products thereof by pipe line was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The rate of tax was increased from 4 per cent to $4\frac{1}{2}$ per cent by section 1650(a), as added by section 210 of the Revenue Act of 1940, effective

for a period of five years beginning July 1, 1940. The tax at such increased rate was made permanent by amendment of section 3460(a) by section 502 of the Revenue Act of 1941.*

SEC. 130.21 SCOPE OF TAX.—Section 3460, as amended by section 502 of the Revenue Act of 1941, imposes a tax on all transportation of crude petroleum and liquid products thereof by pipe line.

The tax applies to any movement of the specified products by pipe line by any person regardless of whether the movement is for hire. The ownership of the pipe-line facilities, or of the product transported, is immaterial. The taxable pipe-line movement of the specified products includes gathering service within the producing field or area, trunk line transportation service, and loading service furnished as part of, or in connection with, a transportation service.*

SEC. 130.22 GATHERING, TRUNK LINE, AND LOADING SERVICES.—The term "gathering service" includes movements of crude petroleum or liquid products thereof through any pipe line reaching from wells, flow tanks, or settling tanks in the area or field where the product is produced, to storage tanks, a trunk line or main line, a refinery, or to market, or any other point within the producing area or field, without regard to the size of the pipe, the length of the movement, or the quantity of the specified products carried through such line. Such term does not include a movement from wells to flow tanks, or settling tanks adjacent to the wells.

Trunk line service includes movements of the specified products from the end of gathering lines, or from unloading points such as loading racks or loading wharves, through main or trunk pipe lines to a point of delivery.

Loading service includes the loading of the specified products into tank cars or tank vessels over loading racks or loading wharves, where such service is performed as part of, or in connection with, transportation service.*

SEC. 130.23 LIABILITY FOR TAX.—The tax is payable by the person furnishing the transportation service.*

SEC. 130.24 RATE AND COMPUTATION OF TAX.—The tax is imposed at the rate of $4\frac{1}{2}$ per cent of the amount paid under actual bona fide rates or tariffs for transportation of crude petroleum and liquid products thereof by pipe line.

Where no charge is made for the transportation of crude petroleum and liquid products thereof by pipe line by reason of the ownership of the commodity so transported, or for any other reason, the tax, at the rate of $4\frac{1}{2}$ per cent, shall be computed on the basis of a fair charge for such transportation, as determined by the Commissioner.

In cases of other than arm's-length transactions, where the payment for transportation of crude petroleum and liquid products thereof by pipe line is less than the fair charge for such transportation, the tax at the rate of $4\frac{1}{2}$ per cent shall be computed on the basis of a fair charge for such transportation, as determined by the Commissioner.*

SEC. 130.25 FAIR CHARGE.—Where no actual bona fide rates or tariffs have been published to cover any particular pipe-line transportation movement of crude petroleum or liquid products thereof, the Commissioner will determine what constitutes a fair charge for the purpose of this tax in respect of the particular movement under consideration, on the basis of the ordinary or customary charge for like or similar service.

Where no ordinary or customary charge for like or similar service exists there should be submitted to the Commissioner for his guidance and assistance in determining a fair charge, (a) a full statement of the facts surrounding the particular movement; (b) a full description of the pipe-line system; and (c) a map or diagram showing in detail the particular area or field and the pipe-line facilities used, including tanks at the point of origin, along the line and at destination, loading and unloading facilities, and any other facilities used in connection with such system.*

SUBPART E.—TELEPHONE, TELEGRAPH, RADIO, AND CABLE FACILITIES

TRANSMISSION OF DISPATCHES, MESSAGES, AND CONVERSATIONS

SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).

(a) There shall be imposed:

(1) (A) In the case of each telephone or radio telephone message or conversation which originates within the United States, for which the charge is more than 24 cents, a tax of 5 cents for each 50 cents, or fraction thereof, of the charge.

(B) In the case of each telegraph, cable, or radio dispatch or message which originates within the United States, a tax of 10 per centum of the amount of the charge. Only one payment of a tax imposed by subparagraph (A) or (B) shall be required notwithstanding the lines or stations of one or more persons are used in the transmission of such dispatch, message, or conversation.

* * * * *

SEC. 3467. RETURNS AND PAYMENT.

(a) The taxes imposed by section 3465 shall be paid by the person paying for the services or facilities.

* * * * *

SEC. 550. EFFECTIVE DATE OF PART IV. (REVENUE ACT OF 1941.)

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

SEC. 130.30 EFFECTIVE PERIOD.—The taxes on telegraph, telephone, cable, or radio dispatches, messages, or conversations, were imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. The Code provisions were further amended by the Revenue Act of 1941, and as the result of such amendment the rates and basis of computing these taxes were changed effective as of October 1, 1941, and the taxes will now continue in effect indefinitely.*

SEC. 130.31 SCOPE OF TAX.—(a) *Telephone and radio telephone messages, and conversations.*—Paragraph (1)(A) of section 3465(a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on each telephone or radio telephone message or conversation

which originates within the United States and for which the charge is more than 24 cents.

(b) *Telegraph, cable, and radio dispatches and messages.*—Paragraph (1) (B) of section 3465(a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on each telegraph, cable, or radio dispatch or message which originates within the United States, regardless of the amount of the charge therefor.*

SEC. 130.32. MEANING OF THE TERM "UNITED STATES."—The term "United States" includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. It also includes inland waters (such as rivers, lakes, bays, etc.) lying wholly within the United States, and, where an international boundary line divides inland waters, such parts of such inland waters as lie within the boundary of the United States, and also the waters known as a marine league from low tide on the coast line. Ships within these limits, whether of foreign or domestic registry, are considered to be within the United States.*

SEC. 130.33 RATE AND APPLICATION OF TAX.—(a) *Telephone and radio telephone messages, and conversations.*—In the case of each telephone or radio telephone message or conversation where the charge is more than 24 cents, the rate of tax is 5 cents for each 50 cents or fraction thereof of the charge. Any additional charge made for "overtime" in connection with a telephone, or radio telephone, message or conversation shall be added to the basic charge for the purpose of determining the amount of tax due. A report charge amounting to more than 24 cents is subject to tax. For information with respect to charges amounting to 24 cents or less, see sections 130.39 to 130.42.

(b) *Telegraph, cable, and radio dispatches, and messages.*—The amount paid for each telegraph, cable, or radio dispatch or message is subject to tax at the rate of 10 per cent.

A charge made for a telephone toll call used by a telegraph company in effecting delivery of a telegraph message shall be added to the basic charge for the transmission of the telegraph message for the purpose of determining the amount subject to tax. In such case, the telegraph company is not liable for tax on the amount paid by it to the telephone company for the toll call whether or not the charge therefor is in excess of 24 cents.

A charge made for a telephone toll call which is used to reach a telegraph office for the purpose of sending a telegraph message should not be added to the basic charge for the transmission of the telegraph message, as the telegraph message is considered to begin at the telegraph office. The telephone toll call in such case is considered to be a separate transaction and as such subject to tax.

(c) *General.*—The tax applies to all charges made for services rendered and facilities provided incidental to the transmission of a message or conversation. A charge made by a telephone, telegraph, radio, or cable company for messenger service in bringing the recipient of a message to the telephone, or in delivering a dispatch or message, must be included in determining the total amount subject to tax. However, a charge for messenger service rendered by a hotel or similar establishment is not to be included in the total charge on which the tax is computed.

Transmission begins when the message is delivered by the sender to the carrier, or its agent, and continues until receipt by the addressee or his agent. A dispatch, message, or conversation transmitted by the combined facilities of several lines or radio links is considered to be one dispatch, message, or conversation for purposes of the tax.

All transmission services, as described herein, when rendered for hire are subject to tax whether or not the agency furnishing such services is a common carrier.

The term "charge" as used herein means the amount specified for the transmission service, whether satisfied in money, service, or other valuable consideration.

The tax is payable by the person paying the transmission charge and is to be collected by the person receiving the payment. (See section 130.70.) If a message, dispatch, or conversation is transmitted "collect," the person who pays the charge therefor is liable for the tax.

Messages which originate in the United States and are sent "collect" to a recipient outside of the United States are taxable. On the other hand, messages originating outside of the United States and sent "collect" to a recipient in the United States are not taxable.*

SEC. 130.34 FRANKED DISPATCHES, MESSAGES, AND CONVERSATIONS.—Where dispatches, messages, or conversations are transmitted by telephone, radio telephone, telegraph, cable, or radio free of any charge whatsoever, no tax attaches, but where the carrier in fact makes some charge for the transmission, either in money, service, or other valuable consideration, such charge is subject to the tax upon the basis of the amount of the charge computed in money or money's worth.*

SEC. 130.35 SERVICES RENDERED UNDER CONTRACT.—Where, under the provisions of a contract, dispatches, messages, or conversations are transmitted by telephone, radio telephone, telegraph, cable, or radio in consideration of the payment of a lump sum of money or the performance of services, the amounts paid for such transmissions are subject to tax regardless of whether such dispatches, messages,

or conversations relate to the operation of the business of a common carrier and whether they are "on line" or "off line."

Where a telegraph company agrees to transmit over its wires dispatches or messages relating to the business of a carrier free or at reduced rates in consideration of services to be performed by the carrier in transporting men or materials of the telegraph company, all such dispatches or messages are subject to tax.*

LEASED WIRE, TELETYPEWRITER, TALKING CIRCUIT SPECIAL SERVICE, AND WIRE AND EQUIPMENT SERVICES

[SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

[(a) There shall be imposed:]

(2) (A) A tax equivalent to 10 per centum of the amount paid for leased wire, teletypewriter, or talking circuit special service.

(B) A tax equivalent to 5 per centum of the amount paid for any wire and equipment service (including stock quotation and information services, burglar alarm or fire alarm service, and all other similar services, but not including service described in subparagraph (A)). The tax shall apply under this paragraph whether or not the wires or services are within a local exchange area.

* * * * *

(b) This section shall not apply to the amount paid for so much of the service described in paragraph 2 of subsection (a) as is utilized in the conduct, by a common carrier or telephone or telegraph company or a radio broadcasting station or network, of its business as such.

SEC. 550. EFFECTIVE DATE OF PART IV. (REVENUE ACT OF 1941.)

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

* * * * *

(c) Despite the provisions of subsection (a), the amendment of section 3465(a)(2) made by section 548 of this Act (relating to tax on leased-wire, etc., services) shall be applicable only to amounts paid on or after such effective date for services rendered, on or after October 1, 1941, and the provisions of such subsection before its amendment by section 548 shall be applicable with respect to the period before October 1, 1941.

* * * * *

SEC. 130.36 EFFECTIVE.—The tax on leased wires and talking circuit special service was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded March 1, 1939, by the provisions of the Internal Revenue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. Effective as of October 1, 1941,

the provisions of the Code relating to this tax were further amended by section 548 of the Revenue Act of 1941, increasing the rate of tax and imposing a tax on the amount paid for any wire and equipment service (including stock quotation and information services, and burglar alarm and fire alarm service). Under the amendment made by section 548, these taxes will continue in effect indefinitely.*

SEC. 130.37 SCOPE OF TAX.—(a) *Leased wire, teletypewriter, or talking circuit special service.*—Paragraph (2)(A) of section 3465(a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid for leased wire, teletypewriter, or talking circuit special service.

(b) *Wire and equipment service.*—Paragraph (2)(B) of section 3465(a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid for any wire and equipment service, including stock quotation and information services, burglar and fire alarm services, and all other similar services.*

SEC. 130.38 RATE AND APPLICATION OF TAX.—(a) *Leased wire, teletypewriter, or talking circuit special service.*—In the case of leased wire, teletypewriter, or talking circuit special service, the tax is to be computed at the rate of 10 per cent of the amount paid therefor.

In general, leased wire, teletypewriter, or talking circuit special service relates to private line service where channels, equipment, and other facilities are furnished (usually, but not necessarily, on a contractual basis) to enable users to communicate between specified locations continuously or for specified periods, as distinguished from the sending of single dispatches, messages, and conversations by telephone, radio telephone, telegraph, cable, or radio for which tolls are charged by the carrier. The communications may be telephonic, in Morse or similar code, or may be reproduced at the terminating end in the form of a typewritten page or tape, or picture or facsimile. The charge for such service may be on a monthly, daily, or hourly basis, or may be determined by the time consumed in transmission, or by the number of words or characters transmitted. In certain instances it may be necessary to utilize the switchboards and exchanges of a carrier to connect the sending and receiving terminals of the service.

Examples of such services are, (1) channels and equipment for private telephone service, (2) channels and equipment for private Morse or similar code service, (3) channels and equipment for teletypewriter or teleprinter service, (4) channels and equipment for teletypewriter or teleprinter exchange service, (5) channels and equipment for program transmission, and (6) channels and equipment for photograph, picture, or facsimile transmission, etc.

(b) *Wire and equipment services.*—In the case of wire and equipment service, the tax is to be computed at the rate of 5 per cent of the amount paid therefor.

Where the services rendered include the furnishing of information, such as stock market quotations, baseball scores, racing results, weather reports, or musical programs, etc., the total amount paid, including any amounts charged for information or programs furnished, shall be the basis for determining the tax due, whether or not individual items are charged or billed separately.

In general, wire and equipment service includes the following and similar services:

(1) Burglar, fire, or other alarm service, where the service consists of channels furnished between a remote point and the subscriber's office or a police or fire station, or a central station, and over which a signal is transmitted in the case of illegal entry, fire, leakage, etc.

(2) Wires and equipment installed on the subscriber's premises for burglar, fire, or other alarm service, not owned by the subscriber, but for the use and maintenance of which he pays a periodic fee, whether or not the wires and equipment are located wholly within his premises.

(3) Channels furnished between a point of origin and the subscriber's premises over which are given stock and bond market quotations and reports, racing results, baseball scores and other sporting results, news items, musical programs, weather reports, the time, etc. (For exception, see section 130.45.)

(4) Metering services, including channels and equipment, furnished between a remote point and the subscriber's office, over which signals are transmitted so that the subscriber may obtain information as to a given condition at the remote point, such as water level, water pressure, gas pressure, etc.

(5) Remote control channels furnished between a remote point and the subscriber's premises which will actuate an instrument at the remote point, such as the starting and stopping of a radio transmitter, etc.

Persons furnishing any of the services specified must collect the tax on the total charge therefor, even though they have paid a tax under section 3465(a)(2)(A) on any wires leased by them for use in furnishing such services.

(c) *General provisions.*—In determining the amount of tax due, there shall be included all charges made in connection with the furnishing of any of the services enumerated, such as salaries of operators, if in the employ of the person furnishing such services, charges for equipment, instruments, and other apparatus, and installation charges.

The tax applies whether or not the wires or services are within a local exchange area. The tax is to be paid by the person paying for the services or facilities furnished, and is to be paid to the person furnishing the services or facilities who is under duty to collect the tax and return and pay it over to the collector of internal revenue. (See sections 130.72 and 130.74).*

LOCAL AND OTHER TELEPHONE SERVICE

[SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

[(a) There shall be imposed:]

(3) A tax equivalent to 6 per centum of the amount paid by subscribers for local telephone service and for any other telephone service in respect of which a tax is not payable under paragraph (1) or (2). Amounts paid for the installation of instruments, wires, poles, switchboards, apparatus, and equipment shall not be considered amounts paid for service. Service paid for by inserting coins in coin-operated telephones shall not be subject to the tax imposed by this paragraph.

[SEC. 550. EFFECTIVE DATE OF PART IV.] (REVENUE ACT OF 1941.)

(d) Despite the provisions of subsection (a), section 3465(a)(3) of the Internal Revenue Code (relating to tax on telephone bills), added to the Internal Revenue Code by section 548 of this Act, shall apply only to the amounts paid in pursuance of bills rendered, after October 5, 1941, for services for which no previous bill was rendered. Such section 3465(a)(3) shall not apply to amounts paid for services otherwise taxable under section 3465(a)(1) which were rendered before October 6, 1941; nor to amounts paid for services otherwise taxable under section 3465(a)(2) which were rendered or paid for before October 6, 1941.

SEC. 130.39 EFFECTIVE PERIOD.—The tax on local and other telephone services was added to the provisions of section 3465 of the Internal Revenue Code by section 548 of the Revenue Act of 1941. In accordance with section 550(d) of the Act, the tax applies only to amounts paid in pursuance of bills rendered, after October 5, 1941, for services for which no previous bill was rendered. It is further provided that the tax shall not apply to amounts paid for services otherwise taxable under section 3465(a)(1) which were rendered before October 6, 1941, nor to amounts paid for services otherwise taxable under section 3465(a)(2) which were rendered or paid for before October 6, 1941.*

SEC. 130.40 SCOPE OF TAX.—Paragraph 3 of section 3465(a), as added by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid by any subscriber for local telephone service and for any other telephone service in respect of which a tax is not payable under the provisions of paragraph (1) or (2) of that section.

The term "local telephone service" relates generally to the ordinary residential or business or commercial telephone service within a local exchange area and includes all types of such service, such as individual line and party line telephones and extension telephones.

The term "any other telephone service" covers any service furnished, the nature of which is telephonic, regardless of the commercial or other name or term by which such service may be known or designated, and which is not embraced in any of the services subject to the provisions of section 3465(a) (1) or (2) of the Code, as amended. (See sections 130.30 to 130.38.)*

SEC. 130.41 RATE AND APPLICATION OF TAX.—The tax is imposed at the rate of 6 per cent of the amount paid by any subscriber for local telephone service or for any other telephone service which is not subject to the provisions of section 3465(a) (1) or (2) of the Code, as amended. (See sections 130.30 to 130.38.)

The "amount paid" means the amount collected for the service, whether paid or satisfied in money, service, or other valuable consideration, and whether the charge is made on a monthly or other periodic basis, or is based on the number of calls made, or is in the form of an assessment, as in the case of a mutual telephone system. Where a basic periodic charge is made for the service, with additional charges for all calls or additional calls above a certain number, the additional charges are also subject to the tax.

Where the charge for telephone service includes an additional charge for not making payment within a specified time, the total amount paid, including the additional charge, is the basis for computing the amount of tax due. Similarly, where a discount is allowed for the payment within a specified time of a charge for services rendered, the tax is to be computed on the amount actually paid.

All amounts paid by subscribers for private branch exchange service, for the use of switchboard, switching, and other telephone equipment, for the use of trunk line facilities, for tie lines (within the local exchange area) connecting private branch exchanges within a local exchange area, are subject to tax. Charges of 24 cents or less for local zone and interzone calls are also subject to the tax.

Where a subscriber to local telephone service is outside of the local exchange area and an additional charge is made on a mileage or other basis, the additional charge is regarded as a charge for leased wire service and is subject to the tax imposed by section 3465(a) (2) (A) of the Code, as amended.

The tax attaches to the total charge made to a hotel, or similar subscriber for local telephone service, including all charges for telephone calls costing not more than 24 cents, made either by the

hotel or its guests, but no tax attaches to any charge made by the hotel for service rendered in placing the calls for its guests.

No tax is imposed on amounts paid by subscribers as charges for the installation of instruments, wires, poles, switchboards, apparatus, and equipment.*

SEC. 130.42 COIN-OPERATED TELEPHONES.—No tax is imposed with respect to charges of 24 cents or less paid by the insertion of coins in public coin-operated telephones for a single telephone conversation. However, if the amount paid for a single telephone conversation, including additional charges for overtime service, totals more than 24 cents, the tax imposed by section 3465(a)(1) of the Code, as amended, applies. (See sections 130.30 to 130.35.)

Service rendered by means of a coin-operated telephone installed under a contract wherein the subscriber agrees that a specified minimum amount will be paid for a prescribed period is regarded as taxable under section 3465(a)(3) and is not considered to be "service paid for by inserting coins in coin-operated telephones" within the meaning of that section. In such case, the tax attaches to the total amount paid by the subscriber to the coin-box service, including the amount paid for the excess calls over the maximum number allowed for the guaranteed monthly or other periodic sum.*

EXEMPTIONS

[SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

(b) This section shall not apply to the amount paid for so much of the service described in paragraph (2) of subsection (a) as is utilized in the conduct, by a common carrier or telephone or telegraph company or a radio broadcasting station or network, of its business as such.

SEC. 130.43 SERVICES FURNISHED TO COMMON CARRIERS, TELEPHONE AND TELEGRAPH COMPANIES, RADIO BROADCASTING STATIONS, AND NETWORKS.—The taxes imposed by section 3465(a)(2) (leased wires, wire and equipment service, etc.) do not apply to amounts paid for any such service which is utilized by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.

This particular exemption is not applicable in the case of the taxes imposed by section 3465(a)(1) (telephone toll charges, telegraph service, etc.) or section 3465(a)(3) (local telephone service, etc.), even though the services referred to are utilized by the companies described in the conduct of their business as such.*

SEC. 3466. EXEMPTION FROM TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).

(a) No tax shall be imposed under section 3465 upon any payment received for services or facilities furnished to the United States or to

any State or Territory, or political subdivision thereof, or the District of Columbia.

(b) No tax shall be imposed under section 3465(a) (1) and (2) upon any payment received from any person for services or facilities utilized in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such services or facilities is billed in writing to such person. Section 3465(a) (3) shall not be construed as imposing a tax on services and facilities described in section 3465(a) (1) or (2) which are exempt from tax under this subsection.

(c) The right to exemption under this section shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe.

SEC. 130.44 SERVICES FURNISHED TO THE UNITED STATES, STATES, OR POLITICAL SUBDIVISIONS THEREOF.—Amounts paid for services or facilities furnished to officers or employees of the United States or any State or Territory or political subdivision thereof, or the District of Columbia, are exempt from tax under this section if such amounts are paid from Government funds.

No exemption certificate is required where the payment for the services or facilities furnished is made by a Government agency direct to the person furnishing the services or facilities. In all other cases the right to exemption shall be evidenced by properly executed exemption certificates in substantially the following form (see also section 130.46):

EXEMPTION CERTIFICATE

-----, 19-----

(Date)

I certify that ----- have been furnished by -----
 (Name service or facility) (Telephone,
 ----- to -----; that the charges
 telegraph company, etc.) (Federal, State, etc., Government)
 of \$ ----- will be paid from ----- funds; and
 (Federal, State, etc., Government)
 that the charges are exempt from tax under section 3466 of the Internal Revenue Code.

 (Signature of Officer or Employee)

 (Title)

 (Address)

NOTE.—Penalty for fraudulent use, \$10,000 or imprisonment or both. (See section 1718 of the Internal Revenue Code.)

*

SEC. 130.45 SERVICES UTILIZED IN THE COLLECTION OF NEWS FOR OR DISSEMINATION OF NEWS THROUGH THE PUBLIC PRESS, NEWS TICKER SERVICES, OR RADIO BROADCASTING.—The exemption provided by sec-

tion 3466(b) is applicable only to payments for services and facilities of the kind described in section 3465(a)(1) (telephone toll charges, telegraph messages, etc.) and section 3465(a)(2) (leased wires, etc.). The exemption will apply only with respect to payments for services and facilities which are utilized exclusively (a) in the collection of news for the public press or radio broadcasting or in the dissemination of news through the public press or by means of radio broadcasting, or (b) in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press. For the exemption to apply, the charge for the services or facilities must be billed in writing to the person paying for the services or facilities, and such person must certify in writing that the services or facilities are so utilized.

The exemption applies to amounts charged for messages from any newspaper, press association, radio news broadcasting agency, or news ticker service, to any other newspaper, press association, radio news broadcasting agency, or news ticker service or to or from their bona fide correspondents, which messages deal exclusively with the collection of news items for, or the dissemination of news items through, the public press, radio broadcasting, or a news ticker service furnishing a general news service similar to that of the public press.

The exemption does not extend to the collection and dissemination of information or matter for publication in magazines, periodicals, and trade and scientific publications issued to supply information on certain subjects of interest to particular groups; to amounts paid by newspapers, press associations, radio news broadcasting agencies or networks, or news ticker services; for subscribers local telephone service or any other telephone services which are subject to the tax imposed by section 3465(a)(3) of the Code, as amended; or to a message the charge for which is 24 cents or less.*

SEC. 130.46 USE AND RETENTION OF EXEMPTION CERTIFICATES.—An agent of a telegraph, telephone, radio, or cable company should not accept an exemption certificate unless satisfied, on the basis of proper credentials or otherwise, that the person who signed it is the person whom he represents himself to be and that the exemption claimed is allowable under the law.

A separate exemption certificate will be required for each message paid for as a separate item, but where periodical payments are made, a blanket certificate (for a period not to exceed one month) may be accepted as evidence of the right to exemption.

These certificates should be retained with the record of the services rendered or the facilities furnished and made available for inspection by internal revenue officers for at least four years from the date the tax would have become due if applicable.*

SUBPART F.—TRANSPORTATION OF PERSONS, ETC.

TRANSPORTATION OF PERSONS

SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).

(a) TRANSPORTATION.—There shall be imposed upon the amount paid within the United States, on or after October 10, 1941, for the transportation, on or after such effective date, of persons by rail, motor vehicle, water, or air, within or without the United States, a tax equal to 5 per centum of the amount so paid. Such tax shall apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, only when such vehicle is operated on an established line.

(b) EXEMPTION OF CERTAIN TRIPS.—The tax imposed by subsection (a) shall not apply to amounts paid for transportation which do not exceed 35 cents, to amounts paid for commutation or season tickets for single trips of less than thirty miles, or to amounts paid for commutation tickets for one month or less.

* * * * *

(d) RETURNS AND PAYMENT.—The taxes imposed by this section shall be paid by the person making the payment subject to the tax. * * *

SEC. 130.50 EFFECTIVE PERIOD.—The tax on the transportation of persons imposed by section 3469(a) became effective as of October 10, 1941, and continues in effect indefinitely.*

SEC. 130.51 SCOPE OF TAX.—Section 3469(a) imposes a tax upon payments of more than 35 cents made in the United States on or after October 10, 1941, for transportation of persons, on or after such date, by rail, motor vehicle, water, or air.

The taxability of a payment for transportation is determined strictly by the place of payment, i. e., whether within or without the United States. The place where the transportation service is furnished has no bearing on the tax. Thus, a payment made within the United States is subject to tax even though the transportation is wholly without the United States, and, conversely, a payment made without the United States is not subject to tax even though the transportation is wholly within the United States.

The purpose of the transportation, whether business or pleasure, is immaterial.

It is not necessary that the transportation be between two definite points. If not otherwise exempt, a payment for continuous transportation beginning and ending at the same point is subject to the tax.

The tax accrues at the time payment is made for the transportation, irrespective of when the transportation is furnished.

The tax is payable by the person making the taxable transportation payment and is collectible by the person receiving such payment. (See section 130.70.)

The tax does not apply to payments for transportation where the charge is 35 cents or less. For other payments not subject to the tax, see sections 130.54 and 130.60 to 130.63.*

SEC. 130.52 RATE AND APPLICATION OF TAX.—The tax is 5 per cent of the amount of the taxable payment for transportation.

The tax is measured by the total amount paid, whether paid at one time or collected at intervals during the course of a continuous transportation, as in the case of a carrier operating under the zone system.

The tax is determined by the amount paid for transportation with respect to each person. Thus, where a single payment is made for the transportation of two or more persons, the taxability of the payment and the amount of the tax, if any, payable with respect thereto, must be determined on the basis of the portion of the total payment properly allocable to each person transported.

Where a payment covers charges for nontransportation services as well as for transportation of a person, such as charges for meals, hotel accommodations, etc., the charges for the nontransportation services may be excluded in computing the tax payable with respect to such payment, provided such charges are separable and are shown in the exact amounts thereof in the records pertaining to the transportation charge. If the charges for nontransportation services are not separable from the charge for transportation of the person, the tax must be computed upon the full amount of the payment.*

SEC. 130.53 PAYMENTS FOR TRANSPORTATION SUBJECT TO TAX.—The following are examples of taxable payments for transportation:

(a) *Cash fares.*—The tax applies to payments of so-called “cash fares” where no ticket or other evidence of the right to transportation is issued to the passenger.

(b) *Scrip books.*—The tax applies to the amount paid for scrip books. The tax shall be collected from the purchaser at the time the scrip book is sold, and not when and as the scrip is used for transportation.

(c) *Additional collections.*—Amounts paid as additional charges for changing the class of accommodations, changing the destination or route, extending the time limit of a ticket, as “extra fare,” or for exclusive occupancy of a section, etc., are subject to the tax.

(d) *Round trip tickets.*—An amount paid for a round trip ticket is taxable if the one-way fare of like class is more than 35 cents.

(e) *Commutation or season tickets.*—An amount paid for a commutation or season ticket good for more than one month is subject to

tax where the single trip is 30 miles or more. For this purpose the term "30 miles" means 30 constructive miles where the rate for transportation is fixed on the constructive mileage. The tax shall be collected from the purchaser at the time of payment for the commutation or season ticket, and not when and as the ticket is used for transportation.

In the event that a partly used exempt commutation or season ticket is redeemed and the carrier makes a charge at regular rates for the used portion of the ticket, the tax applies to such charge, if the one-way fare is more than 35 cents.

(f) *Prepaid orders.*—The tax applies to the amount paid for a prepaid order for transportation, whether within or without the United States, where the payment is made in the United States. As to prepaid orders for which payment is made outside the United States, see section 130.54(b). The tax also applies to the payment of an additional amount in the United States for transportation procured in connection with the use of a prepaid order, regardless of whether the original payment for the prepaid order is made within or without the United States.

(g) *Exchange orders.*—An amount paid in the United States for an exchange order, whether as part of a through ticket or a round trip ticket, is subject to the tax. An additional amount paid in the United States in procuring transportation in connection with the use of an exchange order is likewise subject to tax, without regard to whether the original payment for the exchange order is made within the United States.

(h) *Combinations of rail, motor vehicle, water, or air transportation.*—The tax applies to the total amount paid for transportation over the lines of a number of connecting carriers; and also to the total amount paid for any combination of rail, motor vehicle, water, or air transportation, such as rail-air line, air line-motor bus, or motor bus-steamship, etc.

(i) *Chartered conveyances.*—An amount paid in the United States for the charter of a special car, train, motor vehicle, aircraft, or boat for transportation purposes, provided no charge is made by the charterer to the persons transported, is subject to tax if the amount paid represents a per capita charge of more than 35 cents for each person actually transported.

The charterer of a conveyance who sells transportation to other persons must collect and account for the tax with respect to all amounts paid to him for transportation which are in excess of 35 cents. In such case, no tax will be due on the amount paid for the charter of the conveyance, but it shall be the duty of the owner of

the conveyance to advise the charterer of his liability for collecting and accounting for the tax.

(j) *All-expense tours.*—An amount paid in the United States for an all-expense tour, regardless of the places embraced within the tour, is subject to tax with respect to that portion representing transportation. (See section 130.54(h).)*

SEC. 130.54 PAYMENTS NOT SUBJECT TO TAX.—In addition to the payments specifically exempt from tax, as to which see sections 130.60 to 130.63, the following are examples of transportation payments not subject to tax:

(a) *Payments prior to October 10, 1941.*—The tax does not apply to payments for transportation made prior to October 10, 1941, regardless of whether the transportation is furnished, in whole or in part, after such date. Thus, payments for single tickets for transportation, scrip, prepaid orders, or exchange orders are not subject to tax where made prior to October 10, 1941. Tickets for transportation issued on or after October 10, 1941, pursuant to a prepaid order, exchange order, or scrip, purchased prior to such date, should be stamped with an appropriate legend, for example, "Exchange—Nontaxable Prepaid Order," so that if such tickets are later redeemed, no refund of any amount as tax will be made with respect thereto.

(b) *Payments outside the United States.*—The tax does not apply to transportation furnished within the United States where payment for the transportation is made outside the United States. Thus, tickets for transportation, scrip, prepaid orders, and exchange orders are not subject to tax where payment therefor is made outside the United States. Tickets for transportation issued on or after October 10, 1941, pursuant to prepaid orders, exchange orders, or scrip, purchased outside the United States, should be stamped with an appropriate legend, for example, "Exchange—Nontaxable Prepaid Order," so that if such tickets are later redeemed, no refund of any amount as tax will be made with respect thereto.

(c) *Exchange of prepaid order, scrip, etc., for tickets.*—A ticket issued pursuant to an exchange order, prepaid order, air-line pilot order, or scrip, is not subject to tax where the tax is paid at the time of payment for the order or scrip.

(d) *Caretakers and messengers accompanying freight shipments.*—The tax does not apply to an amount paid for transportation of freight that includes also the transportation of caretakers or messengers for which no specific charge as such is made.

(e) *Special baggage cars.*—An amount paid for a special baggage car is not subject to tax, if separable from the payment for trans-

portation of persons and if shown in the exact amount of the charge on the records covering the taxable transportation payment.

(f) *Circus or show trains.*—The amount paid pursuant to a contract for the movement of a circus or show train is not subject to tax where the amount covers only the transportation of the performers, laborers, animals, equipment, etc., by the circus or show train. However, if the contract payment also covers the issuance to advance agents, bill posters, etc., of circus or show scrip books, or other evidence of the right to transportation, for use on regular passenger trains, that portion of the contract payment properly allocable to such scrip books or other evidence is subject to the tax.

(g) *Corpses.*—The tax does not apply to the amount paid for transportation of a corpse, but does apply to the amount paid for the transportation of any person accompanying the corpse.

(h) *Miscellaneous charges.*—Where the charge is separable from the payment for transportation of a person, and is shown in the exact amount thereof on the records pertaining to the transportation payment, the tax does not apply to the following and similar charges:

(1) Charges for transportation of baggage, including incidental charges such as excess value, storage, transfer, parcel checking, special delivery, etc.

(2) Charges for transportation of an automobile in connection with the transportation of a person.

(3) Charges for bridge or road toll, or a ferry charge of 35 cents or less, made in connection with the transportation of a person by bus. Charges incurred by the carrier which are part of his costs of operation, such as bridge tolls, road tolls, or ferry charges, paid by the carrier on account of the bus and driver, can not be deducted from the charge made to the passenger in determining the taxable charge for transportation.

(4) Charges for admissions, guides, meals, hotel accommodations, and other nontransportation services, for example, where such items are included in a lump-sum payment for an all-expense tour.

(5) Charges in connection with the charter of a land, water, or air conveyance for the transportation of persons, such as for parking, icing, sanitation, "layover" or "waiting time," movement of equipment in deadhead service, dockage, wharfage, etc.*

SEATS, BERTHS, ETC.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC.
(AS ADDED BY SECTION 554 OF THE REVENUE ACT OF
1941).]

(c) SEATS, BERTHS, ETC.—There shall be imposed upon the amount paid within the United States for seating or sleeping accommodations in connection with transportation with respect to which a tax is im-

posed by subsection (a) a tax equivalent to 5 per centum of the amount so paid.

(d) RETURNS AND PAYMENT.—The taxes imposed by this section shall be paid by the person making the payment subject to the tax.

* * *

SEC. 130.55 EFFECTIVE PERIOD.—The tax on seating and sleeping accommodations imposed by section 3469(c) became effective on October 10, 1941, and will continue in effect indefinitely.*

SEC. 130.56 SCOPE OF TAX.—Section 3469(c) imposes a tax upon payments of any amount in the United States for seating or sleeping accommodations in connection with transportation with respect to which a tax is payable under section 3469(a).*

SEC. 130.57 RATE AND APPLICATION OF TAX.—The tax is 5 per cent of the amount of the taxable payment for the seating or sleeping accommodations.

Subject to the exception that the tax on seating or sleeping accommodations imposed by section 3469(c) applies to all payments for such accommodations irrespective of the amount thereof, the various rules and provisions set forth in sections 130.51 to 130.54, inclusive, with respect to the tax on payments for transportation imposed by section 3469(a) are also generally applicable to the tax on payments for seating or sleeping accommodations.*

EXEMPTIONS

SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).

(a) * * * Such tax shall apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, only when such vehicle is operated on an established line.

SEC. 130.58 MOTOR VEHICLES WITH SEATING CAPACITY OF LESS THAN 10.—No tax is imposed on transportation by a motor vehicle having a seating capacity of less than 10 adult passengers, including the driver, unless such vehicle is operated on an established line. The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc. It implies also that the primary contract between the operator and the person served is for the transportation of the person and not for the hire or use of the vehicle.*

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).]

(b) EXEMPTION OF CERTAIN TRIPS.—The tax imposed by subsection (a) shall not apply to amounts paid for transportation which do not exceed 35 cents, to amounts paid for commutation or season tickets for single trips of less than thirty miles, or to amounts paid for commutation tickets for one month or less.

SEC. 130.59 CHARGES NOT EXCEEDING 35 CENTS.—The tax imposed by section 3469(a) on transportation payments does not apply to payments of 35 cents or less.

The exemption is determined by the amount paid for a single one-way trip. Thus, an amount of more than 35 cents paid for round trip transportation is exempt from the tax, if the regular one-way single fare of like class between the terminal points of the round trip does not exceed 35 cents.

An amount paid for the charter of a car, train, motor vehicle, aircraft, or boat is exempt from the tax, if the payment represents a per capita charge of 35 cents or less for each person actually transported.

Any amount paid for seating or sleeping accommodations is not subject to tax under section 3469(c) where the amount of the related payment for transportation is 35 cents or less. However, where the payment for transportation exceeds 35 cents, a payment for seating or sleeping accommodations in connection with such transportation is subject to the tax imposed by section 3469(c) regardless of the amount thereof.*

SEC. 130.60 COMMUTATION TICKETS.—Amounts paid for commutation or season tickets or books for single trips of less than 30 miles are exempt from the tax imposed by section 3469(a), regardless of the length of time for which such tickets or books are valid. The phrase "less than 30 miles" means less than 30 constructive miles in instances where the charge is based on constructive mileage.

Amounts paid for commutation tickets or books for one month or less are exempt from the tax imposed by section 3469(a), regardless of the distance of a single trip.*

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).]

(f) EXEMPTIONS.—

(1) GOVERNMENTAL EXEMPTION.—The tax imposed by this section shall not apply to the payment for transportation or facilities furnished to the United States, or to any State or Territory, or political subdivision thereof, or the District of Columbia.

SEC. 130.61 TRANSPORTATION AND FACILITIES FURNISHED TO THE UNITED STATES, TO STATES, OR POLITICAL SUBDIVISIONS THEREOF.—Amounts paid by the United States, a State or Territory, or political

subdivision thereof, or the District of Columbia, for the transportation of persons or accommodations furnished in connection therewith, are exempt from tax under this section.

Amounts paid for transportation or facilities by an officer or employee of a Government agency who is traveling on a mileage or other allowance basis are exempt from tax where reimbursement is made to such officer or employee by the Government agency.*

SEC. 130.62 EVIDENCE OF RIGHT TO EXEMPTION.—The right to exemption under this section shall be established by the use of (a) Government transportation requests or (b) exemption certificates, Form 731, revised. In the latter case, a separate certificate must be furnished with respect to each amount paid for transportation or for seating or sleeping accommodations furnished in connection therewith. Where a Government agency purchases transportation or facilities for a group of persons, as in the case of an officer conducting a number of prisoners, one certificate covering the total amount paid may be accepted by the carrier. Where a Government agency makes periodic payments for transportation or facilities furnished officers or employees, one certificate covering the total amount paid at any one time may be accepted by the carrier. One exemption certificate covering a number of separate payments may not be accepted by the carrier. Every person claiming exemption from the tax must identify himself by presenting credentials in the form of papers, documents, or other evidence which will reasonably assure the agent of the carrier collecting a charge that he is the officer or employee of the exempt agency on whose behalf the certificate is issued. The exemption certificate must be submitted to the carrier at the time the charges for transportation or facilities are paid. The carrier will retain all exemption certificates accepted, with the record of services and facilities rendered, available for inspection by internal revenue officers for at least four years from the date the tax would have become due if payable.*

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).]

[(f) EXEMPTIONS.—]

(2) EXEMPTION OF MEMBERS OF MILITARY AND NAVAL SERVICE.—The tax imposed by this section shall not apply to the payment for transportation or facilities furnished under special tariffs providing for fares of not more than 1¼ cents per mile applicable to round trip tickets sold to personnel of the United States Army, Navy, Marine Corps, and Coast Guard traveling in uniform of the United States at their own expense when on official leave, furlough, or pass, including authorized cadets and midshipmen, issued on presentation of properly executed certificate.

SEC. 130.63 MEMBERS OF MILITARY AND NAVAL SERVICE.—Amounts paid for transportation and for seating or sleeping accommodations

furnished to personnel of the United States Army, Navy, Marine Corps, and Coast Guard, including authorized cadets and midshipmen, at their own expense, will be exempt from tax only upon compliance with all of the requirements of section 3469(f)(2). A person claiming exemption thereunder will be required to exhibit to the agent of the carrier a properly executed certificate to show that he is traveling on official leave, furlough, or pass, but the surrender of an exemption certificate on Form 731, revised, is not necessary in such case.*

[SEC. 554. TRANSPORTATION OF PERSONS, ETC.] (REVENUE ACT OF 1941.)

(c) STAMP TAX ON PASSAGE TICKETS NOT TO APPLY.—No tax shall be imposed under chapter 11 of the Internal Revenue Code on a ticket sold or issued for passage the amount paid for which is taxable under section 3469 of the Internal Revenue Code.

SEC. 130.64 STAMP TAX.—The stamp tax imposed on passage tickets under section 1806 of the Internal Revenue Code, as amended, which are sold or issued in the United States for passage on any vessel to any port or place not in the United States, Canada, Mexico, Cuba, or Puerto Rico, does not apply to any such passage ticket if the amount paid therefor is subject to the tax imposed under section 3469 of the Code. (See Chapter V of Regulations 71.)*

SUBPART G.—MISCELLANEOUS PROVISIONS
ADMINISTRATIVE PROVISIONS

COLLECTION, RETURN, AND PAYMENT OF TAX

SEC. 1851. COLLECTION OF TAX BY LESSOR.

(a) **REQUIREMENT.**—Every person making any collections specified in subsection (a) of section 1850 shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box.

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SEC. 1852. RETURNS.

(a) **REQUIREMENT.**—Every person making any collections specified in subsection (a) of section 1850 shall on or before the last day of each month make a return, under oath, for the preceding month. Such returns shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) **PLACE FOR FILING.**—The return shall be made to the collector for the district in which is located the principal place of business of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

SEC. 1853. PAYMENT OF TAX.

(a) **TIME FOR PAYMENT.**—The tax imposed by section 1850 shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return.

(b) **PLACE FOR PAYMENT.**—The tax shall be paid to the collector for the district in which is located the principal place of business of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland

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SEC. 3461. RETURNS.

Every person liable for the tax imposed under section 3460 shall make monthly returns under oath in duplicate and pay such taxes to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 3467. RETURNS AND PAYMENT.

(a) The taxes imposed by section 3465 shall be paid by the person paying for the services or facilities.

(b) Each person receiving any payments specified in section 3465 shall collect the amount of the tax imposed by such section from the person making such payments, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay the taxes so collected, to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe. The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than 90 days.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554(b) OF THE REVENUE ACT OF 1941).]

(d) RETURNS AND PAYMENT.—The taxes imposed by this section shall be paid by the person making the payment subject to the tax. Each person receiving any payment specified in subsection (a) or (c) shall collect the amount of the tax imposed from the person making such payment, and shall, on or before the last day of each month, make a return, under oath, for the preceding month, and pay the taxes so collected to the collector in the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribed.

SEC. 3470. PAYMENT OF TAXES.

The taxes imposed by this chapter shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. * * *

LIABILITY FOR TAXES COLLECTED

SEC. 3661. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

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

SEC. 3658. FRACTIONAL PARTS OF A CENT.

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

RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 1720. RECORDS, STATEMENTS, AND RETURNS.

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

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

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

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554(b) OF THE REVENUE ACT OF 1941).]

(e) EXTENSIONS OF TIME.—The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than ninety days.

SEC. 3634. EXTENSION OF TIME FOR FILING RETURNS.

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

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

(a) INTERNAL REVENUE PERSONNEL.—

(1) PERSONS IN CHARGE OF ADMINISTRATION OF INTERNAL REVENUE LAWS GENERALLY.—Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

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

SEC. 3330. WITNESSING OF RETURNS IN LIEU OF OATH.

The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law

(except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

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

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

(1) **TO MAKE RETURN.**—Make a return, or

(2) **TO AMEND COLLECTOR'S RETURN.**—Amend any return made by a collector or deputy collector.

(c) **LEGAL STATUS OF RETURNS.**—Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

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EXAMINATION OF BOOKS AND WITNESSES

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

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

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APPLICABILITY OF ADMINISTRATIVE PROVISIONS

SEC. 1856. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700 shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the tax imposed by section 1850.

SEC. 3473. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700, shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 1722. OTHER LAWS APPLICABLE.

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

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

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

SEC. 130.70 DUTY TO COLLECT, RETURN, AND PAY TAX.—Every person receiving any taxable payment for:

- (a) the use of any safe deposit box,
- (b) the transmission by telephone, telegraph, cable, or radio of dispatches, messages, or conversations,
- (c) any leased wire or talking circuit special service, or wire and equipment services, etc.
- (d) local telephone service, etc.,
- (e) transportation of persons by rail, motor vehicle, water, or air, or
- (f) seating or sleeping accommodations furnished in connection with the transportation of persons,

must collect the tax from the person making such payment at the time the payment is made.*

SEC. 130.71 RECORDS.—(a) Every person required to collect any tax on amounts collected for the use of any safe deposit box, must keep accurate records and accounts of (1) all transactions subject to the tax, and (2) evidence of the right to exemption on any such transaction in respect of which tax is not collected.

(b) In all cases where taxable services are rendered in connection with the transportation of crude petroleum and liquid products thereof by pipe line, the carrier must keep accurate records and accounts showing (1) the daily volume of such commodities accepted for transportation by pipe lines; (2) daily run records of the amount taken into the pipe lines and the amount delivered from the pipe lines; (3) deductions from acceptances or allowances for evaporation, basic sediment, water, etc.; and (4) the charge per barrel and the total charge for each movement.

(c) Every person required by the provisions of the Code to collect any tax on any amount paid for (1) the transmission by telephone, telegraph, cable, or radio of dispatches, messages, or conversations, (2) any leased wire, or talking circuit special service, or wire and equipment service, etc., or (3) any local telephone services, etc., must keep accurate records and accounts of (i) all such services and facilities furnished upon which the tax is imposed, and (ii) evidence of the right to exemption relative to any such services or facilities furnished in respect of which tax is not collected.

(d) Every person required by the provisions of the Code to collect any tax on any amount paid for the transportation of persons, and seating or sleeping accommodations furnished in connection with such transportation, must keep accurate records to show with respect to each ticket or order sold or fare collected, or other individual transaction, the amount of tax collected or evidence of the right to exemption where tax is not collected.

(e) *In general.*—Such records shall be kept for at least four years from the date the tax is due, and shall at all times be open to inspection by internal revenue officers. For penalties for failure to keep proper and accurate records, see section 130.79.*

SEC. 130.72 RETURNS.—(a) Every person required by the provisions of the Code to collect any tax on amounts collected for the use of any safe deposit box, must make returns on Form 727, in accordance with the instructions printed on the back thereof. The returns shall include all taxes collected on payments for the use of safe deposit boxes.

(b) Every person required by the provisions of the Code to pay any tax in connection with the transportation of crude petroleum and liquid products thereof by pipe line must make returns on Form 727 (Revised), in accordance with the instructions on the back thereof. The returns shall include taxes due on all such commodities transported.

(c) Every person required to collect any tax on any amount paid for (1) the transmission by telegraph, telephone, cable, or radio of dispatches, messages, or conversations, (2) any leased wire, or talking circuit special service, or wire and equipment services, etc., or (3) any local telephone services, etc., must make returns on Form 727 (Revised), in accordance with the instructions printed on the back thereof.

Returns covering tax on any telegraph, telephone, cable, or radio services shall include the tax on (a) all prepaid dispatches, messages, or conversations originating on the lines of the person rendering such service and all collect dispatches, messages, or conversations delivered by the person making the return; (b) all leased wire, or talking cir-

cuit special services, or wire and equipment services, etc., and (c) all local telephone services, etc., that are recorded and accounted for by the person making such return and reflected in his billing records for the month, in accordance with the usual business routine.

Every person transmitting any telephone, telegraph, cable, or radio dispatch, message, or conversation "collect" to a point outside the United States, and receiving, whether from a connecting carrier or otherwise, any payment for the transmission, shall collect the tax and make return in accordance with section 130.74.

The tax on conversations through the stations of rural or farmers' line associations, which are recorded and billed by a telephone company operating the exchange to which such stations are connected for service, should be included in the return of said operating company. Taxable conversations, if they are recorded and filed by such rural or farmers' line associations and not by the operating company, should be reported by such associations.

(d) Every person (except as hereinafter noted) required to collect any tax on any amount paid for (1) transportation of persons, or (2) seating or sleeping accommodations furnished in connection with such transportation, must make returns on Form 727 (Revised), in accordance with the instructions printed on the back thereof.

Every person receiving payment for transportation or seating or sleeping accommodations to be furnished by more than one carrier shall collect all of the tax applicable to such transportation or accommodations, and if such person is not the initial carrier, shall remit the amount thereof to the initial carrier, if located in the United States, who will include the amount in its return on Form 727, revised.

Every person receiving payment for a prepaid order or exchange order for transportation or seating or sleeping accommodations to be furnished by any carrier within the United States shall collect all of the tax applicable to such transportation or accommodations and remit such tax in the proper amount to those carriers located within the United States furnishing such transportation or accommodations to be included in monthly returns on Form 727, revised.

Every person receiving payment for transportation or seating or sleeping accommodations where the initial carrier is located outside the United States, or selling any prepaid order or exchange order for transportation or seating or sleeping accommodations to be furnished by any carrier outside the United States, shall collect all of the tax applicable to such transportation or accommodations and include same in monthly return on Form 727, revised.

(e) *In general.*—A return must be made, in duplicate, under oath, for each calendar month, and must be sworn to before an

officer duly authorized to administer oaths unless the amount of tax returned is \$10 or less when it may be signed or acknowledged before two witnesses. The return, together with the amount of the tax, must be filed with the collector of the district in which the principal place of business of the person required to file the return is located (or if he has no principal place of business in the United States, with the collector at Baltimore, Md.), on or before the last day of the month following that for which it is made, except where otherwise required. (See sections 130.73, relating to extension of time, and 130.76, relating to jeopardy assessments.)

When the last day of the month in which a return is due falls on Sunday or a legal holiday, the return may be filed with the collector of internal revenue or his authorized representative on the next secular or business day. If a person charged with the duty of collecting and paying over the tax on any of the facilities or services specified above discontinues business for any reason, the last return to be filed shall be marked "Final Return."

For penalties for failure to file, or delinquency in filing, returns, see section 130.79.*

SEC. 130.73 EXTENSION OF TIME.—In the case of taxes imposed by section 3465, as amended (relating to telephone, telegraph, etc., services and facilities), and section 3469 (relating to transportation of persons, and seating or sleeping accommodations furnished in connection therewith), if it is found impossible to make the proper return within the prescribed time, a request may be filed with the Commissioner for an extension of time, and upon a proper showing the Commissioner may fix a definite time in each instance within which the return may be filed, but in no case shall such extension of time exceed 90 days.*

SEC. 130.74 PAYMENT OF TAXES.—All taxes are due and payable to the collector of internal revenue, without assessment by the Commissioner or notice from the collector, at the time fixed for filing the return. If the tax is not paid when due there shall be added, as part of the tax, interest at the rate of 6 per cent per annum from the time the tax became due to the actual date of payment or assessment, whichever is prior. (See section 130.79.)*

SEC. 130.75 REFUSAL TO PAY TAXES.—If a person to whom any taxable services or facilities (other than pipe-line transportation services) are furnished, refuses to pay the tax imposed thereon, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency should report to the collector of internal revenue for the district in which its returns are filed the name and address of such person, the nature of the service rendered, the amount paid for such service, and the date on which

paid. Upon receipt of such information the collector will report the item to the Commissioner for direct assessment. (See section 130.79 for penalties for refusal to pay tax.)*

JEOPARDY ASSESSMENT

SEC. 3660. JEOPARDY ASSESSMENT.

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

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

SEC. 130.76 JEOPARDY ASSESSMENT.—Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by effecting immediate collection of tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of tax due, and the period involved, so that the Commissioner can immediately assess the tax, together with all penalties and interest due. Such tax, penalties, and interest will, upon assessment, become immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof in full.

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

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

REFUNDS AND CREDITS

SEC. 3471. REFUNDS AND CREDITS (AS AMENDED BY SECTION 554(d)(2) OF THE REVENUE ACT OF 1941).

(a) Credit or refund of any overpayment of tax imposed by subchapter B or subchapter C may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) Any person entitled to refund of tax under this chapter paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) Any person making a refund of any payment on which tax under subchapter B or subchapter C has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 1854. REFUNDS AND CREDITS.

(a) ALLOWANCE.—Credit or refund of any overpayment of tax imposed by section 1850 may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) CREDIT ON MONTHLY RETURNS.—Any person entitled to refund of tax under section 1850 paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) ADJUSTMENTS FOR REFUNDED PAYMENTS.—Any person making a refund of any payment on which tax under section 1850 has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS (AS MENTIONED BY SECTION 508(b) OF THE SECOND REVENUE ACT OF 1940).

(a) To TAXPAYERS.—

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

(2) ASSESSMENTS AND COLLECTIONS AFTER LIMITATION PERIOD.—Any tax (or any interest, penalty, additional amount, or addition

to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

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

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

SEC. 3771. INTEREST ON OVERPAYMENTS.

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

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

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

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

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SEC. 3772. SUITS FOR REFUND.

(a) **LIMITATIONS.**—

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

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

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

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

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SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

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

(a) **EXPIRATION OF PERIOD FOR FILING CLAIM.**—If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) **DISALLOWANCE OF CLAIM AND EXPIRATION OF PERIOD FOR FILING SUIT.**—In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

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

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SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) **PERIOD AGAINST UNITED STATES.**—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770(a)(2).

(b) **PERIOD AGAINST TAXPAYER.**—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

SEC. 130.77 CREDITS.—Every person required to pay tax, or to collect and pay tax, who overpays from his own funds, tax on any

monthly return may, in cases where the overpayment was the result of a clerical or mechanical error, take credit for such overpayment against the tax due on a subsequent monthly return.

Every person required to collect tax, who makes a refund of any payment on which tax has been collected, may repay therewith the amount of tax collected on such payment and take credit for the amount so repaid against the tax due on a subsequent monthly return.

Any monthly return on which a credit is taken shall have attached thereto a sworn statement explaining the reason or reasons for claiming the credit, setting forth the amount of each kind of tax, and the portion thereof chargeable to each month's tax payment which is claimed to have been overpaid or overcollected, and stating whether a claim for refund with respect to any of the amounts involved has been filed, either with the collector or the Commissioner. To the extent that credit claimed on a return filed by a collecting agency is based on refunds or adjustments made with persons who paid the tax, the statement shall show that the collecting agency has refunded the tax to the persons involved or has obtained the written consent of such persons to the allowance of the credit. The written consent must be forwarded to the collector with the return on which the credit is taken.

A complete and detailed record of all credits taken shall be maintained and made available for inspection by revenue officers for four years from the date of the return on which the credit appears.*

SEC. 130.78 ABATEMENT OR REFUND OF ERRONEOUS OR ILLEGAL ASSESSMENTS OR COLLECTIONS.—A claim for abatement or refund of taxes alleged to have been erroneously or illegally assessed or paid (or of any penalties assessed or collected without authority) shall be prepared on Form 843 and presented to the collector of internal revenue for the district in which the amount claimed was assessed or paid. (See section 3313 of the Code.)

Where a collecting agency has erroneously or illegally overpaid from its own funds any tax, the collecting agency may claim a refund of such overpayments. In case a collecting agency has erroneously or illegally overcollected and overpaid any tax due, the collecting agency may claim a refund of the amount so overcollected and overpaid, but only if it is established by affidavit or otherwise as may be required (a) that the tax so overcollected and overpaid has been returned to the person from whom collected, or that the collecting agency has obtained the written consent of such person to the granting of the refund and (b) that no credits have been taken for the alleged overpayment in the manner provided for in section 130.77.

If a person who has paid tax to a collecting agency files a claim for refund in his own name, there should be attached to the claim the original receipts issued by the collecting agency showing payment of the tax involved and a sworn statement of the facts on which the claim for refund is based, and the affidavit on Form 843 must show that no repayment of the tax alleged to have been overpaid or any part thereof has been made to the claimant by the collecting agency and that he has not consented to the allowance of credit or refund to the collecting agency.*

PENALTIES AND INTEREST

[SEC. 1853. PAYMENT OF TAX.]

(c) ADDITION TO THE TAX IN CASE OF DELINQUENCY.—If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 3470. PAYMENT OF TAXES.

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

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

(d) ADDITIONS TO TAX.—

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

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

* * * * *

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

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) DELIVERY.—Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) ADDITION TO TAX FOR NONPAYMENT.—If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment. * * *

* * * * *

SEC. 1718. PENALTIES.

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

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

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

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

SEC. 130.79 PENALTIES AND INTEREST.—In case of failure to file a return within the prescribed time, a certain percentage of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to a reasonable cause

and not to willful neglect. The amount to be added to the tax is 5 per cent if the failure is for not more than 30 days, with an additional 5 per cent for each additional 30 days or fraction thereof during which the failure continues, but not to exceed 25 per cent in the aggregate.

Failure to pay tax within the time fixed for filing returns causes interest to accrue automatically, without assessment of the tax by the Commissioner or notice to the taxpayer, to the date of payment or assessment, whichever is prior. The due date of the tax for the purpose of computing interest is the last day of the month within which the return is required to be filed and the tax paid.

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

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

If a false or fraudulent return is willfully made, the penalty under section 3612(d)(2) is 50 per cent of the total tax due for the entire period involved, *including any tax previously paid for such period.*

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

SEC. 3710. SURRENDER OF PROPERTY SUBJECT TO DISTRAINT.

(a) REQUIREMENT.—Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made,

shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process.

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

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

SEC. 3793. PENALTIES AND FORFEITURES.

* * * * *

(b) **FRAUDULENT RETURNS, AFFIDAVITS, AND CLAIMS.**—

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

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

* * * * *

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

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry

in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

* * * * *

AUTHORITY FOR REGULATIONS

SEC. 1855. REGULATIONS. [Relating to tax on safe deposit boxes.]

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

SEC. 3472. REGULATIONS (AS AMENDED BY SECTION 554(d) (3) OF THE REVENUE ACT OF 1941). [Relating to taxes on transportation of oil by pipe line and telegraph, telephone, radio, and cable facilities.]

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

SEC. 3791. RULES AND REGULATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—* * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) IN CASE OF CHANGE IN LAW.—The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

SEC. 130.80 PROMULGATION OF REGULATIONS.—In pursuance of the provisions of the law, the foregoing regulations are hereby prescribed, and Regulations 42, approved October 22, 1932, as amended (Part 130, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat., Part I) by Treasury Decision 4885, approved February 11, 1939, are superseded as of October 1, 1941.*

GUY T. HELVERING,

Commissioner of Internal Revenue.

Approved: March 31, 1942.

JOHN L. SULLIVAN,

Acting Secretary of the Treasury.

(Filed with the Division of the Federal Register April 1, 1942, 3:20 p. m.)

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