1954

Additional Recommendations Re H.R. 8300

American Institute of Accountants. Committee on Federal Taxation

AMERICAN INSTITUTE OF ACCOUNTANTS
COMMITTEE ON FEDERAL TAXATION

ADDITIONAL RECOMMENDATIONS RE H.R. 8300

(As Passed by Senate)

Submitted to Kenneth Gemmill, Assistant
to the Secretary of the Treasury
June 29 - July 8, 1954

Section	
	1
1(b)(2)	To prevent a loophole, shouldn't there be something in the law that ties the use of the household by the dependent into necessity rather than mere tax convenience for the supporter?
	2
61(a)(13)	Since a partner is required to include in income his gross distributive share of partnership income, provision should be made among the sections for deductions for the deduction of his distributive share of partnership deductions.
	3
105(d)	Will an employer have to determine the reason for an employee's absence and be responsible for withholding if it should turn out that an employee was not sick or that the illness did not start or end on the dates alleged by the employee? From the employer's standpoint, there should be an affirmative provision enabling the employer to rely on representations by the employee.
	4
151(e)(4)(A)	The Finance Committee Report rules out night school as full-time attendance. Why should this be? Is it any different from attendance at day school with a job at night?
	5
164(d)(3)	It will not be feasible to apply the provision as written since it requires familiarity by strangers of one another's accounting methods and excercise of elections. The apportionment should be permitted in all cases. If the seller under his accounting method has already accrued the deduction, then he should be required to report the apportioned amount as income. If the buyer is on a lien basis and the lien date has not yet arrived at the time of the acquisition, the deduction should be the full amount of the tax less the amount allocated to the seller.
	6
164(d)(3)(B)	The requirement for election before the sale should be changed to election within 90 days after enactment so that sales in 1954 before enactment that are otherwise subject to the 1954 Code can be covered.

Section		
	7	
166(f)	Doesn't this mean that a direct loan can be a non-business bad debt whereas guaranteeing an amount and then paying it becomes a regular deduction? This doesn't seem a logical way of leaving it. There should be no difference between the direct loan and the guaranteed loan.	
	8	
167(b)(3)	The sum-of-the-years-digits method should be limited so that it is applied on an annual basis. If it is done on a monthly basis and a short period is involved, the write-off is faster. Incidentally, the illustration in the Finance Committee Report applies a full year's depreciation to an acquisition during the year. Is that intended?	
	9	
167(b)(4)	The reference to useful life of the property should be modified to estimated useful life, so as to avoid rehashing and continuing controversy where the actual useful life turns out to be different from the previous pattern of computed depreciation. (The same point applies to Sec. 167(c).)	
	10	
167(c)	Instead of the reference to three years or more, it should be four years or more. An item with a three-year life will permit 90% write-off in two years. This intensifies the capital gain advantage on salvage. The way it now stands, a taxpayer in the top brackets can be dollars ahead. For example, an automobile costing $3,000 depreciated at the end of two years by 90% would leave a $300 cost. If it is salvaged at $1,000 there is a $700 capital gain. If the taxpayer is in the 90% bracket, he has a $2,430 tax saving from the depreciation and $825 left on the salvage less the capital gain tax, or $3,255 in his pocket, compared with his original expenditure of $3,000.	
	11	
167(e)	The right to start with the declining-balance method should be extended to the first return to be filed after enactment so that returns for fiscal years closing early in 1954 need not be amended in respect to acquisitions since December 31, 1953.	
	12	
167(g)	The last sentence should give priority to the provisions of the will, just as the preceding sentence does for the provisions of a trust. Otherwise, one person may be left depreciable property but all the estate's beneficiaries will be participating in the deduction.	

Section		
	13	
170(b)	The amendment on the Senate floor permits excess corporate contributions to be carried forward. The same arrangement should apply to individuals.	
	14	
172(d)(6)	This is going to have queer results that should be avoided. For example, $15,000 operating loss and $100,000 dividend income will result in taxable income of $12,750. On the other hand, $16,000 of operating loss and $100,000 of dividend income will result in a net loss of $1,000. In other words, $1,000 additional operating loss has reduced taxable income by $13,750, because in the first case the limitation of Sec.246(b) is applied and in the second it is not.	
	15	
172(f)	See attached memorandum for an adjustment needed in connection with fiscal year taxpayers.	
	16	
214(b)(3)(A)	A joint return shouldn't be necessary and the restriction should not apply if husband and wife are in fact separated by agreement or if the husband is a non-resident alien.	
	17	
302(b)(2)	Won't there be a loophole on disproportionate redemptions unless it is buttressed by measuring the effect of reacquisitions within the next ten years?	
	18	
302(b)(2)(D)	For the government's protection, isn't an extension of the statute of limitations necessary?	
	19	
302(b)(2)(D)	Also, to police the provision, shouldn't there be an affirmative requirement to report subsequent redemptions?	
	20	
302(b)(2)(D)	It is not clear whether a vanishing base results. If it does, this is inequitable and should be corrected.	
	21	
302(b)(2)(D)	If a series of redemptions results in disproportion, shouldn't it conversely be true that a series of redemptions that results in disproportion should give the status of disproportion to each redemption in the series, even though a particular redemption may be proportionate?	
	22	
302(b)(2)(D)	A fixed number of years to the series should be involved (like five), so that there will be some point of time when both the taxpayer and the government will know that the matter is at an end.	

Section		
	23	
302(b)(3)	What if the redemption includes preferred stock arrearages? Will that part be taxable or tax free?	
	24	
302(c)(2)(A)	What about protection for refunds on a subsequent disposition of the stock?	
	25	
302(c)(2)(A)	An interest in a pension fund should be excluded just as is done in the last sentence of 318(a)(2)(B).	
	26	
303(a)	Shouldn't this provision be limited to distributions made only to those shareholders who are affected by the estate tax and expenses, like the estate, the beneficiary, etc.?	
	27	
304(a)(2)	To prevent a loophole, shouldn't the provision also cover redemption by a parent of minority stock of a subsidiary?	
	28	
304(c)(1)	Instead of 50% as the criterion, it should be more than 50%.	
	29	
304(c)(1)	The idea that there may be more than one person or group said to be in control is not sound. The criterion should be based either on voting control or aggregate stock value, but not both.	
	30	
304(c)(1)	It is not sound to impute control to a 25% interest, yet that is what is done if a person owns 50% of the stock of a corporation that in turn owns 50% of the distributing company stock.	
	31	
305(b)(1)	Why is this limited to the current and previous years' dividends? It is either all income or, as we believe, it should all be tax free.	
	32	
306(a)	Page 242 of the Finance Committee report goes too far. No disposition should be deemed to exist by a pledge of securities. The disposition takes place only at the time the securities are in fact used to pay the debt or to cancel the debt.	
	33	
306(a)(1)	Again, the problem of a vanishing base arises that should be corrected. (One fellow has indicated that if the common is sold first the allocated base is used, but if the preferred is sold first the full basis is preserved. We see nothing in the statute justifying this. Sec. 307(a) specifically requires allocation, and there is nothing in 306 that shifts the allocation.)	

Section		
	34	
306(a)(1)	The theory is that a redemption of 306 stock is the equivalent to a distribution of earnings. Shouldn't the amount be treated as a dividend and hence subject to the dividend credit rather than the sale of a non-capital asset? (This would square with the theory of Sec. 306(f).)	
	35	
306(b)(1)	The requirement that everything be sold all at one time is not practical. Provision should be made for a series of sales within a limited period of time.	
	36	
306(b)(1)(A)(iii)	The termination of the interest should be affirmatively limited to the stock interest and not the collateral aspects, like officer, director, etc.	
	37	
306(b)(1)(A)(iii)	The family attribution rule should apply just as it does in 306(b)(1)(B).	
	38	
306(c)	Since this applies only to the dividend stock and not the stock on which the dividend is paid, how will one be differentiated from the other where, for example, there is a preferred stock dividend on preferred stock?	
	39	
306(c)(1)(A)	Why is all the stock tainted if $1 is paid out of earnings and profits and $999 is not? Isn't this simple to overcome by two distributions, one of $1 and the other of $999? As a result, isn't there here a trap for the unwary?	
	40	
306(f)	How will the buyer know whether a foreigner's stock is 306 stock and therefore know whether to withhold?	
	41	
311(c)	What if more than one property is involved and one is a capital asset and the other is not? Shouldn't there be an affirmative authorization to the Secretary for rules on allocation (the same point arises in Sec. 357(c)).	
	42	
312(j)(1)(A)	Must the loan be guaranteed 100% for this provision to apply?	
	43	
312(j)(1)(B)	What if other security is posted, like a personal endorsement?	
	44	
312(j)(1)(B)	Must the liability likewise be distributed?	

45

318(a)(1) Is it realistic to attribute ownership to husband and wife separated by agreement? Shouldn't the theory of the alimony provisions be recognized here?

46

318(a)(1) Why not include brothers and sisters of unmarried people in the family circle?

47

318(a)(1) Why not include grandparents, if grandchildren are embraced?

48

318(a)(3) Shouldn't convertible securities be included with options?

49

332(c)(2) What is the status of indebtedness created after the adoption of the plan?

50

333(d) The requirement for filing an election thirty days after the adoption of the plan has proven very unfair. It is the only election that must be filed before income tax time and there are many who are ignorant about it and therefore deprived of the use of this provision.

51

334(b)(2) Does the last sentence require a basis reduction for the ordinary dividend? The Finance Committee Report infers the affirmative. If that is the case, shouldn't there be an upward adjustment for the taxed earnings of the subsidiary?

52

334(b)(2) There should be an affirmative provision that a merger is to be regarded the same as complete liquidation.

53

334(c) While the language is consistent with Sec. 113(a)(18) of the 1939 Code, the statute should give effect to what has been accepted administratively about the need for increasing basis in respect to corporate liabilities taken over by the stockholders.

54

337 Won't this have the effect of forcing liquidations to extend beyond twelve months where losses are involved on the disposition of assets, or else the loss carryback itself will be lost? Isn't the remedy to make the application of this section optional?

55

337(a) Doesn't the government need an extension of the statute because of the "12 months" provision which may extend over to another taxable year?

Section		
	56	
337(b)(1)	Would sales of scrap be taxable or tax-exempt?	
	57	
337(b)(2)	One transaction or sale to one person should suffice. It shouldn't require both.	
	58	
337(b)(2)	Are sales to family members okay?	
	59	
341(b)(1)	Why should "purpose" be injected here? There will be the same pitfalls as the old Sec. 102. The condition itself, regardless of purpose, should suffice.	
	60	
341(c)(1)(B)	Won't it be possible to get around this provision by building up inventory just before liquidation or stock sale so as to get below the 120% requirement?	
	61	
341(c)(2)(B)	Close the loophole that will otherwise be available for investment in United States discount obligations not treated as capital assets under the tax law.	
	62	
342	Isn't it overly liberal to reopen and extend capital gains status for another one and one-half years?	
	63	
346(b)	The requirement for the distribution of assets of a business at one time is understandable but to require all the assets to be sold and the proceeds distributed on the same day is not realistic. The five-year period should be considered met if the business was conducted up to the sale rather than to the distribution of the proceeds.	
	64	
346(b)(1)	This provision should also extend to the distribution of the proceeds of sale of stock in a subsidiary where the subsidiary met the five-year rule.	
	65	
355(a)	What if the distribution includes preferred stock dividend arrearages?	
	66	
355(a)	Does this provision as written enable a transfer of cash to a subsidiary and then spin-off of the subsidiary and sale of the spun-off stock? If so, wouldn't this provision make for an easy tax reduction device?	
	67	
355(a)(1)(D)(i)	Can this be defeated by a transfer of some of the stock to another subsidiary before the distribution?	

Section		
	68	
355(b)(1)(B)	The requirement that all assets be distributed is not practical. It should be substantially all, as in (b)(2)(A). Furthermore, assets retained to pay claims should be provided for, just as is done in the liquidation provisions.	
	69	
355(b)(2)(B)	Would a downstream merger into a newly acquired five-year old company get around the requirement?	
	70	
355(b)(2)(B)	A frequent spin-off is the separation of plant real estate from manufacturing operations. If the real estate had been owned for five years, will this be considered the active conduct of a real estate business sufficient to meet the requirements? Statutory language should be used to insure an affirmative answer.	
	71	
355(b)(2)(B)	How about additions to real estate within the five-year period where the real estate itself was owned for five years or more? The entire investment should qualify.	
	72	
356(d)(2)(B)	Where several bonds are involved, the excess should be valued on the basis of its proportion of the aggregate face amount of all bonds to the aggregate value of all bonds.	
	73	
357(b)(1)	To prevent a loophole, "a" principal purpose should suffice, like in Sec. 367.	
	74	
362(c)	How is it possible to identify money and its use?	
	75	
362(c)	Provision should be made for extending the twelve-month limitation with protection to the government.	
	76	
362(c)	Investment by a subsidiary of the money should be covered.	
	77	
362(c)	In connection with the reduction in base, does this mean that if a company is on a Lifo inventory the reduction will have the effect of further lowering the Lifo base?	
	78	
368(a)(1)(C)	This provision should be extended so that it will apply not only to the acquisition of assets but also the acquisition of stock in exchange for the stock of the acquiring company's parent.	

Section		
	79	
368(a)(2)(B)(iii)	Does this require separate transactions, one for voting stock and the other for different consideration?	
	80	
368(a)(2)(B)(iii)	Does this mean that if there is one cent of cash, the liabilities can not exceed 20% but if no cash is involved the liabilities can be unlimited? If so, it is not realistic.	
	81	
381(c)(1)	Shouldn't Secs. 269 and 382 be specifically declared as an exception?	
	82	
381(c)(1)(B)	Why is the ratio applied to taxable income? It should be applied to the amount of the net loss carryover. The same applies with respect to the capital loss carryover in 381(c)(3).	
	83	
381(c)(1)(C)	Are the net loss adjustments that apply in prior years to be computed for each company separately or on a combined basis?	
	84	
381(c)(1)(C)	What if in the current year the distributing company has a loss and the acquiring company a profit?	
	85	
381(c)(5)	What if the distributor is on a Lifo basis and the acquiring company is on Fifo and the inventories are physically merged?	
	86	
381(c)(7)	Why shouldn't the distributor be required to include the unreported amount in income for the year in which the distribution takes place, just as with installment obligations?	
	87	
382(a)(1)(A)	In line 19, ownership should be expanded to include "directly or indirectly."	
	88	
382(a)(1)(B)(ii)	How can an outsider determine whether a reduction in stock is due to estate tax problems of another stockholder?	
	89	
382(a)(1)(C)	What is the justification in the Finance Committee Report (page 285) for the statement that a change of location is a change of business. This is not realistic.	

Section		
	90	
382(a)(1)(C)	There should be some criteria on how long a business must continue. A suggested yardstick is at least through the period of the absorption of the loss carryover. There should also be clarification as to what is meant by the continuation of the business. For example, if a chain of fifty stores is acquired, would the continuation of one store and the elimination of all others plus entrance into a new field be a continuation of the business?	
	91	
382(a)(3)	The 50% rule should not be disregarded.	
	92	
382(a)(3)	Does this provision mean that an individual can acquire stock of a loss company in the same proportion as he already owns stock in a profit company and then merge the two? (This raises the entire question of the relationship between 382(a) and 382(b).)	
	93	
382(c)	The limitation to voting stock may create both loopholes and inequities. For example, preferred stock may be non-voting at the beginning of the year and become voting at the end of the year by reason of default in dividends, or vice-versa. Non-voting preferred stock can be given voting privilege to get below the 50% criterion. Also, what is to be the status of non-voting preferred stock that is convertible into a voting stock?	
	94	
Part VI	It is unfair to attach significance to a June 18 date when taxpayers now are immobilized not knowing whether the House provisions or the Finance Committee provisions will prevail. The effective date should pivot around the date of enactment or, more preferably, ninety days after enactment.	
	95	
393(b)(2)	Why should formal submission to the Secretary be a criterion? Most taxpayers have refrained from asking for rulings. Some have put the facts before the Service on an informal basis and without disclosure of names. (This points up the desirability of making the effective date after the date of enactment.)	
	96	
393(b)(2)	Would a submission by one party of the situation to the Secretary be enough to give the other party the benefit of this provision?	
	97	
393(b)(2)	In line 10, the requirement for completion should be "substantially" in accordance with the plan.	

Section		
	98	
395(b)		Is a whole provision put in suspense and rendered ineffective where only part of the provision requires rules, as in Sec. 358(b)(1), which will depend upon rules of allocation for the base. Does that mean that the entire reorganization comes under the 1939 Code because the segment of basis is not clarified until the rules come out?
	99	
401(c) (House bill)		This provision should be restored to get away from all of the headaches and, in many instances, artificiality that goes with deferred compensation agreements.
	100	
452(a)(2)		It should be made clear that the requirement for reporting income within five years does not apply where under existing rules there would be no requirement for the immediate reporting of prepaid income. For example, trading stamps are now handled under the regulations on a spacing based on actual experience which may go far beyond six years. There is no reason to upset an established and mutually acceptable area of that sort.
	101	
481(a)(2)		The exception should be eliminated, or it may give rise to windfalls or hardship. Windfalls would arise from getting the benefit of an opening inventory without ever having to report that in income of prior years. Hardship would arise from being denied deductions applicable to prior years on a shift from the cash to the accrual basis. The Finance Committee Report deals with the problem as if only errors were involved but the situation may not be merely error.
	102	
481(b)		Just as an increase in income can be allocated back to prevent bunching of income, so decreases in income should be spread back to prevent the adverse revenue effect of bunching of a deduction or the development of unusable deductions.
	103	
501(e) (House bill)		Item 1 of the last sentence should be restored so that it will be made affirmatively clear that a profit sharing plan does not require a pre-determined formula.
	104	
542(b)(2)		The last sentence pivots around an amount to be derived from subparagraph A. It is not clear what amount is to be derived under subparagraph A.
	105	
582(c)		Shouldn't the requirement about interest coupons or registered form be eliminated, just as was done in Secs. 171 and 1232?

Section		
	106	
642(a)	How, as a practical matter, will a beneficiary on a calendar year basis be able to get the information about dividends received by a trust during the calendar year where the trust is on a fiscal year. There should be affirmative requirement making it necessary for the trustees to report such information to the beneficiaries, just as is required of employers for compensation income.
	107	
642(h)	Shouldn't the allowance of the respective deductions be conditioned on the limitations that go with Secs. 172 and 1212?
	108	
651	Shouldn't this and 652 likewise apply to estates that distribute current income only?
	109	
663(b)(2)(A)	Because of the new concepts involved, the effective date should be 1955, just as was done with partnerships. (This likewise applies to 665(b)(3)(C).)
	110	
704(d)	The loss should be denied only if there is no reasonable prospect of the partner paying for his share of the loss. Otherwise, loophole and inequity can be created. The loophole is in the flexibility that it gives to the timing of the deduction by the partner and the inequity is that it deprives the partner of carryback losses and one of the sources for making good on his obligation to the other partners.
	111	
704(e)(3)	The mandatory prevention of the diminution of an interest of a partner due to military service should be made permissive.
	112	
706(b)(1)	What if a corporation is a principal partner? What if a corporation elects to be taxed as a partner? Must all the principal stockholders change their accounting period?
	113	
706(b)(1)	A partner has the automatic right to change to the fiscal year of a partnership. Shouldn't that also be applied to the partner's wife?
	114	
706(b)(1)	A partnership is given the automatic right to change to the accounting period of the partners. Won't this create a loophole where a partnership on a fiscal year has sustained losses in the remainder of the calendar year and the partners are on a calendar year. By shifting the partnership to a calendar year the benefit of losses against profits is obtained immediately instead of having losses in the next year, the utilization of which may be doubtful.

Section		
	115	
707(b)(2)	Why should the transferee's status determine whether an item is a capital asset or not? Shouldn't it be the transferor's? Isn't the idea to avoid any advantage or disadvantage merely by a shift, such as from dealer's status to investor?	
	116	
707(c)	It should be made clear that the items involved are not subject to withholding and other features that attend upon compensation of employees.	
	117	
732(c)	Allocation in relation to the basis of the property to the partnership may result in distortions and is inconsistent with the use of market value in 755(a).	
	118	
752	Doesn't this give rise to a loophole? Suppose a non-capital asset costs a partner $1 and is worth $100. If he sells it to the partnership he has ordinary income. If he contributes it to the partnership and then later draws down $100 against his capital account there is a resulting capital gain.	
	119	
754	Why should an election be required of the partnership when the effect of an election is only on particular partners, as in the case of Sec. 743?	
	120	
1014(b)(9)	What is the justification for reducing the base by prior depreciation when the decedent would have been allowed that same prior depreciation and the estate tax base would be allowed the beneficiary undiminished by that prior depreciation? If prior depreciation is to be considered, then shouldn't the base be increased by prior taxed income from the property?	
	121	
1014(b)(9)	Donees of donees should be included.	
	122	
1351(a)	Shouldn't the provision be applied to old corporations if the stockholders consent to pick up all the earnings and profits as dividends at the time the election is made? The Finance Committee Report suggests the possibility of liquidation and reincorporation. Wouldn't that run afoul of the principles set forth in Sec. 357 of the House bill and that are now part of the adjudications?	

Section		
	123	
1351(f)	On a disqualification, what will be the situation regarding earnings and profits for the tax under Sec. 531, the $60,000 allowance, the status for determination of available amounts for dividends, net loss carryovers, continuation of accounting methods, etc.
	124	
1351(f)	Is an estate or beneficiary of a trust or a donee considered as a new owner? Is an estate or trust considered as an individual?
	125	
1351(g)	Shouldn't this provision also be made applicable to subsection (b)(1) in the determination of ten shareholders?
	126	
1351(h)	Shouldn't there be affirmative provision for refund of tax paid by partners and an extension of the statute of limitations for this purpose?
	127	
1361	What has been said about Sec. 1351 is equally applicable to 1361.
	128	
1361(d)	It is not fair to have both 1351 and 1361 go "against" the taxpayer. The partners of an organization taxed as a corporation should be treated as employees.
	129	
1361(f)	What is the effect of disqualification? Is it considered as a corporate liquidation?
	130	
1361(i)(3)	Which distributions will be deemed to come first, the amount of personal holding company income or the other income?
	131	
1361(j)(1)	Will the deduction be allowed even though Sec. 267(a)(2) would otherwise be involved?
	132	
1501	There should be an affirmative provision that a new election arises for the first year under the 1954 Code.
	133	
3121(a)	The measure of the amount of taxable compensation for employment taxes should be the same as for income taxes, in order to eliminate a tremendous bookkeeping and administrative burden that now exists. Accordingly, the value of meals or lodging furnished for the convenience of the employer as set forth in Sec. 119 should be affirmatively excluded. (The same point arises in Sec. 3306(b).)

Section		
	134	
6654(d)(1)(B)	To avoid endless controversy and demoralization, the criterion for any penalty should be based on reasonable estimates (as is described in the Finance Committee Report for Sec. 6655) and not the actual final figure. (This likewise applies to 6654(d)(1)(C) and (d)(2).)
	135	
6654(d)(1)(C)	Annualization should be required of the distributive share of partnership or estate income or capital gains.
	136	
6655	The bill rather than the Finance Committee Report should set forth that in determining whether the tax will be $100,000 reasonable estimates are appropriate and not the final figure.
	137	
7483	The extra month that the other party is given for an appeal should be eliminated. It will only have the effect of provoking an appeal where otherwise none would have been taken.

EXISTING INEQUITY

Sec. 172 of H.R. 8300 as originally passed by the House permits, effective for years beginning after December 31, 1953, a two-year carryback of net operating losses rather than the one-year carryback permitted under existing law. The Senate Finance Committee has recommended that this section be changed to also permit a two-year loss carryback for the 1954 portion of a fiscal year which began in 1953. This change was intended to eliminate discrimination against fiscal year taxpayers as compared with calendar year taxpayers. Discrimination still exists, however, since the mechanics involved in the carryback computations required a fiscal year taxpayer to reduce a loss carryback by the dividends received credit (and certain other adjustments) of the two preceding years, whereas a calendar year taxpayer would reduce a loss carryback by the dividends received credit of only one preceding year.

RECOMMENDATION

The amendments to be made by the Senate should provide that a fiscal year taxpayer as well as a calendar year taxpayer must reduce a loss carryback by the dividends received credit of only one preceding year. This could be done, in effect, by reducing the loss carryback of the fiscal year taxpayer by only a prorata amount of the dividends received credit applicable to the years to which the loss is carried back on a prorated basis.

(Continued)

DISPARITY IN TREATMENT OF CALENDAR YEAR AND FISCAL YEAR TAXPAYERS UNDER SEC. 172 OF H.R. 8300 AS AMENDED BY THE SENATE FINANCE COMMITTEE

BASIC ASSUMPTIONS:

YEAR 1954:	
Net operating loss	$36,000
YEAR 1953:	
Net income	50,000
Dividends received credit	20,000
Normal tax net income	30,000
YEAR 1952:	
Net income	50,000
Dividends received credit	20,000
Normal tax net income	30,000

	YEAR ENDING DEC.31-1952	YEAR ENDING DEC.31-1953	TOTAL
CALENDAR YEAR COMPANY:			
Net operating loss carryback from 1954	$36,000	$ -0-	$36,000
Less dividends received credit	20,000	-0-	20,000
Amount of net operating loss available for use as a net operating loss deduction	$16,000	$ -0-	$16,000

	YEAR ENDING JUNE 30-1952	YEAR ENDING JUNE 30-1953	TOTAL
FISCAL YEAR COMPANY - PER SENATE FINANCE COMMITTEE RECOMMENDATIONS (assuming fiscal year ending June 30):			
Net operating loss carryback from 1954 - prorated	$18,000	$18,000	$36,000
Less dividends received credit - for entire year	20,000	20,000	40,000
Amount of net operating loss available for use as a net operating loss deduction	$ -0-	$ -0-	$ -0-

	YEAR ENDING JUNE 30-1952	YEAR ENDING JUNE 30-1953	TOTAL
FISCAL YEAR COMPANY - AS PROPOSED (assuming fiscal year ending June 30):			
Net operating loss carryback from 1954 - prorated	$18,000	$18,000	$36,000
Less dividends received credit - prorata portion	10,000	10,000	20,000
Amount of net operating loss available for use as a net operating loss deduction	$ 8,000	$ 8,000	$16,000

Note - Under present law, with only a one year carryback permitted, a fiscal year taxpayer and a calendar year taxpayer would be treated equally, and each would, under the stated facts, have $16,000 available for use as a net operating loss deduction.