FORM 1120H
U. S. Treasury Department
Internal Revenue Service

UNITED STATES

RETURN OF PERSONAL HOLDING COMPANY

1950

(UNDER SUBCHAPTER A, CHAPTER 2, INTERNAL REVENUE CODE)

For Calendar Year 1950

or fiscal year beginning ....., 1950, and ending ....., 1951

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

(Name)

(Street and number)

(City or town) (State)

File Code .....

Serial Number .....

District .....

(Cashier's Stamp)

Cash Check M. O.

First Payment

$ .....

Item and Instruction No.	SUBCHAPTER A NET INCOME COMPUTATION (See Instruction H)		
1.	Net income (as defined in chapter 1 of the Internal Revenue Code)		$
2.	Add: Contributions or gifts deducted in computing item 1. (See item 6, below)		
3.	Excess of expenses and depreciation over income from property not allowable under section 505(b). (From Schedule A)		
4.	Net operating loss deducted in computing item 1. (From Form 1120, item 33, page 1)		
5.	Total of items 1 to 4, inclusive		$
6.	Less: Contributions or gifts paid. (From Schedule B)	$	
7.	Federal income, war-profits, and excess-profits taxes (not deducted in computing item 1). (From Schedule C)		
8.	Income and profits taxes paid to a foreign country or United States possession (not deducted in computing item 1)		
9.	Amounts paid in liquidation of liability of the corporation based on liability of a decedent to make contributions or gifts. (Attach statement)		
10.	Subchapter A net income (item 5 minus total of items 6 to 9, inclusive)		$
	UNDISTRIBUTED SUBCHAPTER A NET INCOME COMPUTATION (See Instruction I)		
11.	Subchapter A net income (item 10, above)		$
12.	Less: Dividends paid credit. (From Schedule D)	$	
13.	Amounts used or irrevocably set aside to pay or retire indebtedness of any kind incurred prior to January 1, 1934. (From Schedule E)		
14.	Undistributed subchapter A net income (before applying section 504(c)) (item 11 minus total of items 12 and 13)		$
15.	Less: Dividends paid after close of taxable year, excluding deficiency dividends as defined in section 506(c). (Attach schedule of computation)		
16.	Undistributed subchapter A net income		$
	COMPUTATION OF TAX		
17.	Surtax on portion of item 16, not in excess of $2,000, at 75%		$
18.	Surtax on portion of item 16, in excess of $2,000, at 85%		
19.	Total surtax due (total of items 17 and 18)		$
	COMPUTATION OF ALTERNATIVE TAX		
20.	Undistributed subchapter A net income (item 16, above)		$
21.	Net long-term capital gain. (From Schedule C, Form 1120)	$	
22.	Less: Net short-term capital loss. (From Schedule C, Form 1120)		
23.	Excess of net long-term capital gain over net short-term capital loss		
24.	Undistributed subchapter A net income reduced by excess in item 23		$
25.	Surtax on portion of item 24, not in excess of $2,000, at 75%		$
26.	Surtax on portion of item 24, in excess of $2,000, at 85%		
27.	Partial surtax (item 25 plus item 26)		$
28.	25% of item 23		
29.	Total of items 27 and 28		$
30.	Less: Portion of income tax under chapter 1 attributable to item 23		
31.	Alternative tax (item 29 minus item 30)		$
32.	Tax liability (item 19 or 31, whichever is lesser)		$

Furnish below the names and addresses of the individuals who owned, directly or indirectly, at any time during the last half of the taxable year, more than 50 percent in value of the outstanding capital stock of the corporation:

Name	Address	Highest percentage of shares owned during last half of taxable year	
		Preferred	Common
(1)			
(2)			
(3)			
(4)			
(5)			

DECLARATION (See Instruction E)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, each for himself declares under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Internal Revenue Code and the regulations issued thereunder.

(President or principal officer) (State title)

CORPORATE SEAL

(Date)

(Treasurer, Assistant Treasurer, or Chief Accounting Officer) (State title)

(If this return was prepared by some person or persons other than officers or employees of the corporation, the following declaration must be signed)

DECLARATION (See Instruction E)

I/we declare under the penalties of perjury that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the tax liability imposed by section 500 of the Internal Revenue Code of the person for whom this return has been prepared of which I/we have any knowledge.

(Signature of person preparing the return)

(Signature of person preparing the return)

(Date)

(Name of firm or employer, if any)

Schedule A.—EXCESS OF EXPENSES AND DEPRECIATION OVER INCOME FROM PROPERTY NOT ALLOWABLE UNDER SECTION 505 (b). (See Instruction 3)

1. Kind of Property	2. Date Acquired	3. Cost or Other Basis	4. Depreciation	5. Repairs, Insurance, and Other Expenses (section 23 (a)) (Itemize below)	6. Aggregate of Expenses and Depreciation in Columns 4 and 5	7. Income from Rent or Other Compensation	8. Excess (Column 6 minus Column 7)
(a)		$	$	$	$	$	$
(b)							
(c)							
(d)							

Total excess of expenses and depreciation over rent or other compensation. (Enter as item 3, first page) $

Explanation of expenses entered in column 5

State the names and addresses of persons from whom rent or other compensation was received for the use of, or the right to use, each property

Schedule B.—CONTRIBUTIONS OR GIFTS PAID. (See Instruction 6)

Name and Address of Organization	Amount	Name and Address of Organization	Amount
	$		$

Total. (Enter as item 6, first page, subject to 15 percent limitation) $

Schedule C.—FEDERAL INCOME, WAR-PROFITS, AND EXCESS-PROFITS TAXES. (See Instruction 7)

Nature of Tax	Taxable Year	Amount	Nature of Tax	Taxable Year	Amount
		$			$

Total. (Enter as item 7, first page) $

NOTE.—Do not include surtaxes imposed by sections 102 and 500 of the Internal Revenue Code, or by the corresponding sections of a prior income tax law.

Schedule D.—DIVIDENDS PAID CREDIT. (See Instruction 12)

1. Taxable dividends paid, excluding (*a*) dividends claimed in the preceding year under section 504(c), and (*b*) deficiency dividends as defined in section 506(c)	$
2. Consent dividends credit. (Submit schedule)	
3. Taxable distributions (total of lines 1 and 2)	$
4. Net operating loss of preceding taxable year (not in excess of the subchapter A net income). (Submit schedule)	$
5. Bank affiliate credit	
6. Total of lines 4 and 5, or subchapter A net income, whichever is lesser	$
7. Dividend carry-over from first and second preceding taxable years. (Submit schedule of computation)	$
8. Dividends paid credit (total of lines 3, 6, and 7). (Enter as item 12, first page)	$

Schedule E.—AMOUNTS USED OR SET ASIDE TO PAY OR RETIRE INDEBTEDNESS INCURRED PRIOR TO JANUARY 1, 1934. (See Instruction 13)

	I	II	III
1. Description of indebtedness			
2. Date incurred or assumed			
3. Date due			
4. Original amount of indebtedness	$	$	$
5. Amount used or set aside prior to January 1, 1934, to pay or retire such indebtedness			
6. Excess of indebtedness on January 1, 1934, over total amount used or set aside prior to that date to pay or retire such indebtedness	$	$	$
7. Amounts used or set aside to retire such indebtedness during the following calendar years, or during fiscal years beginning in such calendar years — 1934	$	$	$
1935			
1936			
1937			
1938			
1939			
1940			
1941			
1942			
1943			
1944			
1945			
1946			
1947			
1948			
1949			
8. Amount used or irrevocably set aside during the taxable year covered by this return to pay or retire such indebtedness			
9. Total of lines 7 and 8	$	$	$
10. Balance of indebtedness (line 6 minus line 9)	$	$	$
11. Indicate separately:			
(*a*) Amount actually used during the taxable year covered by this return to pay or retire the indebtedness	$	$	$
(*b*) Amount irrevocably set aside during the taxable year covered by this return to pay or retire the indebtedness, but not actually used during the taxable year for such purpose	$	$	$
12. Portions of amounts entered on line 8 above, claimed as deductions for the taxable year covered by this return. (Enter total as item 13, first page)	$	$	$

Indicate by check mark whether the deduction claimed in item 13, first page of this return, represents:

A ☐ Amount actually used during the taxable year to pay or retire the indebtedness;
B ☐ Amount irrevocably set aside during the taxable year to pay or retire the indebtedness; or
C ☐ Combination of both A and B.

There must be furnished all of the facts and circumstances upon which the taxpayer relies to establish the reasonableness of the amount claimed as a deduction. Describe fully the plan for payment or retirement of the obligations, indicating date and method of adoption, and, where the plan is covered by a mandatory sinking fund agreement or similar arrangement, submit a copy of the indenture or agreement by which the fund was established and under which it is maintained

If the amount claimed as a deduction in item 13, first page of this return, represents an amount irrevocably set aside to pay or retire the indebtedness, explain fully the circumstances and method by which it was irrevocably set aside

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INSTRUCTIONS FOR FORM 1120H

1950 UNITED STATES RETURN OF PERSONAL HOLDING COMPANY 1950

(UNDER SUBCHAPTER A, CHAPTER 2, INTERNAL REVENUE CODE)

(References are to the Internal Revenue Code, unless otherwise noted)

Taxpayers will find it helpful to read General Instructions (A) to (J) before commencing to fill in their returns and to read the Specific Instructions in connection with filling in the items to which they refer.

GENERAL INSTRUCTIONS

(A) **Corporations which must make return on Form 1120H.**—Every corporation which comes within the classification of a "personal holding company." Section 501 contains the following general provisions relating to the definition of a personal holding company:

(a) GENERAL RULE.—For the purposes of this subchapter and chapter 1, the term "personal holding company" means any corporation if—

(1) *Gross income requirement.*—At least 80 per centum of its gross income for the taxable year is personal holding company income as defined in section 502; but if the corporation is a personal holding company with respect to any taxable year beginning after December 1, 1936, then, for each subsequent taxable year, the minimum percentage shall be 70 per centum in lieu of 80 per centum, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 per centum of the gross income is personal holding company income; and

(2) *Stock ownership requirement.*—At any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals.

(b) EXCEPTIONS.—The term "personal holding company" does not include a corporation exempt from taxation under section 101, a bank as defined in section 104, a life insurance company, a surety company, a foreign personal holding company defined in section 331, a licensed personal finance company, or a lending company, defined in subsection (b) (6), a loan or investment company defined in subsection (b) (7), or a finance company defined in subsection (b) (8).

(c) CORPORATIONS MAKING CONSOLIDATED RETURNS.—If the common parent corporation of an affiliated group of corporations making a consolidated return under the provisions of section 141 satisfies the stock ownership requirement provided in section 501(a)(2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross income requirements provided in section 501(a)(1), such affiliated group shall be subject to the surtax imposed by this subchapter. The preceding sentence shall apply only if the common parent corporation is a common parent of an affiliated group of railroad corporations which would be eligible to file consolidated returns under section 141 prior to its amendment by the Revenue Act of 1942.

A foreign corporation, whether resident or nonresident, which is classified as a personal holding company under section 501 (not including a foreign personal holding company as defined in section 331) is subject to the tax imposed by section 500 with respect to its income from sources within the United States even though such income is not fixed or determinable annual or periodical income specified in section 231(a). (See section 119.) The term "personal holding company" as used in subchapter A does not include a foreign corporation if (1) its gross income from sources within the United States for the period specified in section 119(a)(2)(B) is less than 50 percent of its total gross income from all sources and (2) all of its stock outstanding during the last half of the taxable year is owned by nonresident alien individuals, whether directly or indirectly through other foreign corporations.

Personal holding company income.—The term "personal holding company income" is defined by section 502 as the portion of the gross income which consists of:

"(a) Dividends, interest (other than interest constituting rent as defined in subsection (g)), royalties (other than mineral, oil, or gas royalties), annuities.

"(b) STOCK AND SECURITIES TRANSACTIONS.—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

"(c) COMMODITIES TRANSACTIONS.—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

"(d) ESTATES AND TRUSTS.—Amounts includible in computing the net income of the corporation under Supplement E of chapter 1; and gains from the sale or other disposition of any interest in an estate or trust.

"(e) PERSONAL SERVICE CONTRACTS.—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

"(f) USE OF CORPORATION PROPERTY BY SHAREHOLDER.—Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

"(g) RENTS.—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property, and the interest on debts owed to the corporation, to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation; but does not include amounts constituting personal holding company income under subsection (f).

"(h) MINERAL, OIL, OR GAS ROYALTIES.—Mineral, oil, or gas royalties unless (1) constituting 50 per centum or more of the gross income and (2) the deductions allowable under section 23(a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 per centum or more of the gross income."

Stock ownership.—Section 503 contains the following provision with reference to stock ownership:

"(a) CONSTRUCTIVE OWNERSHIP.—For the purpose of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 501(a)(2), section 502(e), or section 502(f)—

"(1) *Stock not owned by individual.*—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

"(2) *Family and partnership ownership.*—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(3) *Options.*—If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(4) *Application of family-partnership and option rules.*—Paragraphs (2) and (3) shall be applied—

"(A) For the purposes of the stock ownership requirement provided in section 501(a)(2), if, but only if, the effect is to make the corporation a personal holding company;

"(B) For the purposes of section 502(e) (relating to personal service contracts), or of section 502(f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as personal holding company income.

"(5) *Constructive ownership as actual ownership.*—Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

"(6) *Option rule in lieu of family and partnership rule.*—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

"(b) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

"(1) For the purpose of the stock ownership requirement provided in section 501(a)(2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

"(2) For the purpose of section 502(e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income; and

"(3) For the purpose of section 502(f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income.

"The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included."

(B) **Period to be covered by return.**—Returns shall be filed for the calendar year 1950 or fiscal year beginning in 1950 and ending in 1951. A fiscal year must end on the last day of a calendar month other than December.

The established accounting period must be adhered to for all years unless permission is received from the Commissioner to make a change. An application for a change should be made on Form 1128 and forwarded to the Commissioner of Internal Revenue, Washington 25, D. C., at least 60 days prior to the close of the fractional part of the year for which a return would be required to effect the change.

(C) **Basis of return.**—If your books of account are kept on the accrual basis, report all income accrued, even though it has not been actually received or entered on the books, and expenses incurred instead of expenses paid. If your books are not kept on the accrual basis, or if you kept no books, make your return on a cash basis and report all income received or constructively received, such as bank interest credited to your account and coupon bond interest matured, and report expenses actually paid.

(D) **When and where return must be filed.**—Returns must be filed on or before the 15th day of the third month following the close of the taxable year with the collector for the district in which the corporation's principal place of business or principal office or agency is located. In the case of a foreign corporation engaged in business within the United States but not having an office or place of business therein, the return shall be filed on or before the 15th day of the sixth month following the close of the taxable year with the Collector of Internal Revenue, Baltimore 2, Md.

(E) **Signatures and verification.**—The return must be signed by the president, vice president, or other principal officer, and by the treasurer, assistant treasurer, or chief accounting officer. Where the return is actually prepared by some person or persons other than officers or employees of the corporation, such person or persons must also sign the declaration at the foot of first page.

(F) **When and to whom tax must be paid.**—The tax must be paid in full when the return is filed, or in four installments, as follows: 30 percent on or before the 15th day of the third month; 30 percent on or before the 15th day of the sixth month; 20 percent on or before the 15th day of the ninth month; and 20 percent on or before the 15th day of the twelfth month following the close of the taxable year.

If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand by the collector.

The tax may be paid by sending or bringing with the return a check or money order drawn to the order of "Collector of Internal Revenue." Do not send cash by mail, or pay it in person except at the collector's office.

(G) **Penalties.**—*For failure to make and file return on time.*—Five percent to 25 percent of the amount of the tax, unless such failure is due to reasonable cause, and, in addition, where failure is willful, a fine of not more than $10,000 or imprisonment for not more than 1 year, or both, together with the costs of prosecution.

For willfully attempting to evade or defeat payment of the tax.—Not more than $10,000 or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

For deficiency due to negligence or fraud.—Five percent of the amount of the deficiency if due to negligence or intentional disregard of rules and regulations without intent to defraud, or 50 percent of the amount of the deficiency if due to fraud.

(H) **Definition of Subchapter A Net Income.**—Section 505 defines the term "Subchapter A Net Income" for the purposes of subchapter A as the net income, with the following adjustments:

"(a) ADDITIONAL DEDUCTIONS.—There shall be allowed as deductions—

"(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, or a section of a prior income-tax law corresponding to either of such sections.

"(2) In lieu of the deduction allowed by section 23(q), contributions or gifts, payment of which is made within the taxable year to or for the use of donees described in section 23(q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the taxpayer's net income, computed without the benefit of this paragraph and section 23(q), and without the deduction of the amount disallowed under subsection (b) of this section. For the purposes of the preceding sentence, payment of any contribution or gift shall be considered as made within the taxable year if and only if it is considered for the purposes of section 23 (q) as made within such year.

"(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23(o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph.

"(b) DEDUCTIONS NOT ALLOWED.—The aggregate of the deductions allowed under section 23(a), relating to expenses, and section 23(l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

"(1) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

"(2) That the property was held in the course of a business carried on bona fide for profit; and

"(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

"(c) NET LOSS CARRY-OVER DISALLOWED.—The deduction for net operating losses provided in section 23(s) shall not be allowed.

"(d) 1941 CAPITAL LOSS CARRY-OVER DENIED.—The net income shall be computed without regard to section 117(e)(2).

"(e) INCOME NOT PLACED ON ANNUAL BASIS.—The net income shall be computed without regard to section 47(c)."

(I) **Definition of undistributed subchapter A net income.**—Section 504 defines the term "undistributed subchapter A net income" as the subchapter A net income (as defined in section 505) minus—

"(a) The amount of the dividends paid credit provided in section 27(a) without the benefit of paragraphs (3) and (4) thereof (computed without its reduction, under section 27(b)(1), by the amount of the credit provided in section 26(a), relating to interest on certain obligations of the United States and Government corporations); but, in the computation of the dividends paid credit for the purposes of this subchapter, the amount allowed under subsection (c) of this section or of section 405 of the Revenue Act of 1938 in the computation of the tax under this subchapter or under Title IA of the Revenue Act of 1938 for any preceding taxable year beginning after December 31, 1937, shall be considered as a dividend paid in such preceding taxable year and not in the year of distribution;

"(b) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness;

"(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends would have been includible in the computation of the basic surtax credit for the taxable year if distributed during such taxable year; but the amount allowed under this subsection shall not exceed either:

"(1) The undistributed subchapter A net income for the taxable year computed without regard to this subsection; or

"(2) 10 per centum of the sum of—

"(A) The dividends paid during the taxable year (reduced by the amount allowed under this subsection in the computation of the tax under this subchapter for the taxable year preceding the taxable year or, in the case of a taxable year beginning in 1939, by the amount allowed under section 405(c) of the Revenue Act of 1938 in the computation of the tax under Title IA of such Act for a taxable year beginning prior to January 1, 1939); and

"(B) The consent dividends credit for the taxable year.

"(d) Amounts distributed before January 1, 1944, in redemption of preferred stock outstanding before January 1, 1934 (including any preferred stock issued after January 1, 1934, in lieu of such previously outstanding preferred stock) if such distributions are made by a corporation the aggregate of whose gross sales and gross receipts arising from manufacturing, commercial, processing, and service operations during the four-year period immediately before January 1, 1934, exceeded the aggregate of its gross receipts from dividends, interest, royalties, annuities, and gains from the sale or exchange of stock or securities during such period."

(J) Definition of gross income of certain insurance companies for personal holding company tax.—The term "gross income," as used in subchapter A, means, in the case of an insurance company other than life or mutual, the gross income, as defined in section 204(b)(1), increased by the amount of losses incurred, as defined in section 204(b)(6), and the amount of expenses incurred, as defined in section 204(b)(7), and decreased by the amount deductible under section 204(c)(7) (relating to tax-free interest). (See section 507.)

SPECIFIC INSTRUCTIONS

The following instructions are numbered to correspond with item numbers on the first page of the return

1. **Net income.**—Enter the net income, for the taxable year computed in accordance with the provisions of chapter 1, but without regard to section 47(c) (relating to income placed on an annual basis). In the case of domestic and resident foreign corporations engaged in trade or business in the United States, this item, except as noted above, is the amount shown as item 34, page 1, Form 1120.

In the case of a nonresident foreign corporation (not engaged in trade or business within the United States) which qualifies as a personal holding company under section 501 but not as a foreign personal holding company under section 331, the amount to be entered in item 1 as the net income must be computed under section 119 rather than under section 231(a). Net income so computed will reflect, in addition to income from all other sources within the United States, gains from sales or exchanges made within the United States of capital assets including stocks, securities, and commodities. Although such gains are not subject to normal tax under section 231(a), chapter 1, they are subject to the surtax imposed by section 500, subchapter A.

2. **Contributions or gifts deducted under section 23(q).**—Section 23(q) provides for the deduction of contributions or gifts paid within the taxable year to the extent of 5 percent of the net income computed without the benefit of such deduction while section 505 provides that in computing subchapter A net income there shall be allowed in lieu of the deduction allowed by section 23(q) contributions or gifts of specified types paid within the taxable year to an amount which does not exceed 15 percent of the net income computed without the benefit of such deduction and the deduction allowed under section 23(q), and without the deduction of the amount disallowed under section 505(b). Provision for deduction of the larger allowance is made in item 6 and in order to show the amount of income upon which the increased limitation is based the amount allowed under section 23(q) and deducted in computing net income under chapter 1 (item 1) should be entered as item 2. (See Specific Instruction 6.)

3. **Excess of expenses and depreciation over income from property not allowable under section 505(b).**—Section 505(b) provides as follows:

"(b) DEDUCTIONS NOT ALLOWED.—The aggregate of the deductions allowed under section 23(a) relating to expenses, and section 23(l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:
"(1) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;
"(2) That the property was held in the course of a business carried on bona fide for profit; and
"(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business."

If the corporation derived rent or other compensation for the use or right to use property which was less than the sum of the expenses incurred in connection therewith and deductible under section 23(a) and the depreciation allowable under section 23(l), Schedule A should be filled in and the excess of the expenses and depreciation over the rent or other compensation shown therein should be entered as item 3, first page of the return, unless the corporation is prepared to establish the propriety of the deduction to the satisfaction of the Commissioner.

The burden of proof will rest upon the taxpayer to sustain the deduction of the aggregate of the expenses allowed under section 23(a) and depreciation allowed under section 23(l) in excess of the rent or other compensation derived from the property. A corporation claiming such excess deductions shall, in lieu of filling in Schedule A, attach to the return a statement setting forth its claim for allowance of the deductions together with a complete statement of facts, circumstances, and arguments on which it relies in support of the deductions. Such statement shall include:

(*a*) A description of the property;
(*b*) The cost or other basis to the corporation and the nature and value of the consideration paid for the property;
(*c*) The name and address of the person from whom acquired and the date thereof;
(*d*) The name and address of the person to whom leased or rented, or the person permitted to use the property, and the number of shares of stock, if any, held by such person and the members of his family;
(*e*) The nature (cash, securities, services, etc.) and gross amount of the rent or other compensation received or accrued for the use of, or the right to use, the property during the taxable year and for each of the five preceding years and the amount of the expenses incurred with respect to, and the depreciation sustained on, the property for such years;
(*f*) Evidence that the rent or other compensation was the highest obtainable and if none was received or accrued, a statement of the reasons therefor;
(*g*) A copy of the contract, lease, or rental agreement;
(*h*) The purpose for which the property was used;
(*i*) The business carried on by the corporation with respect to which the property was held and the gross income, expenses, and net income derived from the conduct of such business for the taxable year and for each of the five preceding years;
(*j*) A statement of any reasons which existed for expectation that the operation of the property would be profitable, or a statement of the necessity for the use of the property in the business of the corporation and the reasons why the property was acquired;
(*k*) Any other information on which the corporation relies.

6. **Contributions or gifts deductible under section 505(a)(2).**—As noted under Specific Instruction 2 above, the amount deducted under section 23(q) in computing net income under chapter 1 is to be restored to income under item 2. Furnish in Schedule B details of the contributions or gifts paid within the taxable year to or for the use of donees described in section 23(q), and enter the total amount thereof as item 6 except where such total exceeds 15 percent of item 5 minus item 4, in which case the amount to be entered as item 6 is 15 percent of item 5 minus item 4.

If a deduction is claimed in item 9, no deduction is allowable in item 6. (See section 505(a)(3).)

7. **Federal income, war-profits, and excess-profits taxes.**—Section 505(a)(1) provides that there shall be allowed as additional deductions:

"(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, or a section of a prior income-tax law corresponding to either of such sections."

Furnish details of such items in Schedule C and enter the total amount in item 7.

8. **Income and profits taxes of a foreign country or United States possession.**—The foreign tax credit permitted to domestic corporations by section 131 with respect to the taxes imposed by chapter 1 is not allowed as a credit with respect to the surtax imposed by section 500. However, the deduction under section 23(c)(2) of income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States is permitted for the purpose of computing the undistributed subchapter A net income subject to the surtax imposed by section 500 even though the taxpayer claims a credit for such taxes against the taxes imposed by chapter 1.

Domestic corporations should enter in item 8 the amount of such taxes shown on line 4, Schedule M, Form 1120, where any portion thereof has been claimed as a credit in item 36, page 1, Form 1120, but if such corporations have claimed such taxes as deductions under section 23(c)(2) in computing net income subject to tax under chapter 1, no entry should be made in item 8.

Foreign corporations should treat such taxes as deductions to be allocated in accordance with section 119 in the computation of net income from sources within the United States and in such cases taxes of this nature will be reflected in the net income stated in item 1 instead of being stated separately as a deduction in item 9.

9. **Amounts paid in liquidation of liability of a corporation based on liability of a decedent to make contributions or gifts.**—Section 505(a)(3) provides for the following deduction:

"(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23(o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph."

(Paragraph (2) relates to the limited deduction for contributions or gifts paid. See Specific Instruction 6.)

Any deduction claimed under this provision of law must be fully explained in a statement attached to the return.

12. **Dividends paid credit.**—Enter as item 12 the amount of the dividends paid credit as computed in Schedule D. (See also General Instruction I.)

No duplication of credit allowances with respect to any "deficiency dividends" is permitted. If a corporation claims and receives the benefit of the provisions of section 506 based upon a distribution of "deficiency dividends," that distribution does not become a part of the basic surtax credit for the purposes of subchapter A of chapter 2.

13. **Amount used or irrevocably set aside to pay or retire indebtedness of any kind incurred prior to January 1, 1934.**—Enter as item 13 the total amount reflected in line 12, Schedule E. Section 504(b) provides that in determining "undistributed subchapter A net income" there shall be deducted amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.

Indebtedness.—The term "indebtedness" means an obligation, absolute and not contingent, to pay, on demand or within a given time, in cash or other medium, a fixed amount. The term "indebtedness" does not include the obligation of a corporation on its capital stock.

The indebtedness must have been incurred (or, if incurred by assumption, assumed) by the taxpayer prior to January 1, 1934. An indebtedness evidenced by bonds, notes, or other obligations issued by a corporation is ordinarily incurred as of the date such obligations are issued, and the amount of such indebtedness is the amount represented by the face value of the obligations. In the case of refunding, renewal, or other change in the form of an indebtedness, the giving of a new promise to pay by the taxpayer will not have the effect of changing the date the indebtedness was incurred.

Amounts used or irrevocably set aside.—The deduction is allowable, in any taxable year, only for amounts used or irrevocably set aside in that year. The use or irrevocable setting aside must be to effect the extinguishment or discharge of indebtedness. In the case of refunding, renewal or other change in the form of an indebtedness, the mere giving of a new promise to pay by the taxpayer will not result in an allowable deduction. If amounts are set aside in one year, no deduction is allowable for such amounts for a later year in which actually paid. As long as all other conditions are satisfied, the aggregate amount allowable as a deduction for any taxable year includes all amounts (from whatever source) used and, as well, all amounts (from whatever source) irrevocably set aside, irrespective of whether in cash or other medium. Double deductions are not permitted.

Reasonableness of the amounts with reference to the size and terms of the indebtedness.—The reasonableness of the amounts used or irrevocably set aside must be determined by reference to the size and terms of the particular indebtedness. Hence, all the facts and circumstances with respect to the nature, scope, conditions, amount, maturity, and other terms of the particular indebtedness must be shown in each case.

Ordinarily an amount used to pay or retire an indebtedness, in whole or in part, at or prior to the maturity and in accordance with the terms thereof will be considered reasonable, and may be allowable as a deduction for the year in which so used, if no adjustment is required by reason of an amount set aside in a prior year for payment or retirement of the same indebtedness.

All amounts irrevocably set aside for the payment or retirement of an indebtedness in accordance with and pursuant to the terms of the obligation, for example, the annual contribution to trustees required by a mandatory sinking fund agreement, will be considered as complying with the statutory requirement of reasonableness. To be considered reasonable, it is not necessary that the plan of retirement provide for a retroactive setting aside of amounts for years prior to that in which the plan is adopted. However, if a voluntary plan was adopted prior to 1934, no adjustment is allowable in respect of the amounts set aside in the years prior to 1934.

General.—The burden of proof will rest upon the taxpayer to sustain the deduction claimed. Therefore, the taxpayer must furnish the information required by Schedule E of the return and such other information as the Commissioner may require in substantiation of the deduction claimed.

15. **Dividends paid after close of taxable year, excluding deficiency dividends as defined in section 506(c).**—Enter as item 15 the amount of dividends paid after the close of the taxable year and before the fifteenth day of the third month thereafter, if claimed under section 504(c) in the return, but only to the extent and subject to the limitations contained in that section. (See General Instruction I.)

No duplication of credit allowances with respect to any "deficiency dividends" is permitted. If a corporation claims and receives the benefit of the provisions of section 506 based upon a distribution of "deficiency dividends," that distribution is not made the basis of the 2½-month carry-back credit provided for in section 504(c).

20 to 31. **Alternative tax under section 117(c)(1).**—The provisions of section 117(c)(1) impose an alternative tax, determined in the manner set forth in such section, in lieu of the aggregate tax imposed by sections 13, 14, 15, 204, 207(a)(1) or (3) and 500. In the case of a personal holding company having an excess of net long-term capital gain over net short-term capital loss included in undistributed subchapter A net income and such company is liable for normal tax and surtax under chapter 1, the following rules are applicable:

(*a*) Compute the tax imposed by chapter 1 and determine the effective rate applicable to the tax with respect to the excess of the net long-term capital gain over net short-term capital loss;
(*b*) The amount of tax thus computed is to be considered as chapter 1 tax;
(*c*) The tax liability computed under the alternative method with respect to the personal holding company return should be reduced by that portion of the chapter 1 tax attributable to the excess of such capital gain;
(*d*) The tax liability as so reduced will constitute the personal holding company surtax.

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