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CONTENTS

Page

Proposed Regulations on Consolidated Returns 1
Key Computer Personnel Expected to be Critically Scarce by 1970 4
New SEC Policy Requires Deferred Income Taxes to be Treated as Current Liability Where Related Assets are Current 7
Multi-State Companies Need to Review Effects of Proposed Legislation on Interstate Taxation 8
In Brief 16

INCOME TAXES

Proposed Regulations on Consolidated Returns

The Treasury has promised action as soon as possible to finalize the consolidated return regulations proposed on October 1, 1965. Because the regulations will first apply to taxable years beginning after December 31, 1965, taxpayers have opportunities to obtain tax advantages from the timing of transactions. Planning must give consideration to both the substantive and the procedural changes. We summarize below some of the more important of the many significant changes contained in the long and very complex proposed regulations.

1. Substantive Changes.

New, liberalized rules adopted in April, 1965, which permit certain net operating losses from separate-return years to be carried over to consolidated-return years without the prior limitations, have been retained in the proposed regulations. In addition, the rules would be extended to carryovers of unused investment credit, unused foreign tax credit and net capital losses. No carryover would be available however if *the multiple surtax exemption election was effective for the separate return year.*

Tax treatment of profit and loss on deferred intercompany transactions would be drastically changed. Under the revised rules, the selling corporation and not the acquiring corporation, would ultimately report the gain or loss

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on the intercompany transaction. This would prevent the complete avoidance of tax on such a transaction which can occur under present rules where the selling corporation (parent) sells the stock of the purchasing corporation (subsidiary).

Losses ("built-in deductions"). Where a member of an affiliated group had economically incurred losses before it became a member of the group, or during a period a multiple surtax exemptions election was in effect, and such losses are required for tax purposes to be reported in a year in which a consolidated return is filed, the losses would generally be deductible only to the extent of the member's taxable income. Any excess, unused "built-in deductions" would be treated as net operating or capital losses subject to the limitations with respect to carrybacks and carryovers of such losses. This provision would replace a more limited provision in the present regulations.

Disposition of a subsidiary whose stock had a "negative basis" because of basis adjustments required by the consolidated-return regulations would result in taxable income to its shareholders to the extent its losses were offset against consolidated taxable income in years beginning after December 31, 1965.

2. Procedural Changes.

Effective Date. The revised regulations are to be effective for taxable years beginning after December 31, 1965. The old regulations remain effective for calendar year 1965 and fiscal years beginning in 1965.

Termination of Election. Affiliated groups have received automatic permission to file separate returns for the first taxable year beginning after December 31, 1965. Despite the Treasury announcement that automatic permission to file separate returns will not be given for years covered by the old regulations, an affiliated group filing its 1965 income tax returns after the final consolidated return regulations are issued may contend that it has the right to terminate the election and file separate returns for such years. Those corporations which would benefit from filing separate returns should consider obtaining extensions in order to postpone filing their returns until after the new regulations are finalized.

The new regulations would tighten the general rules for terminating the consolidated-return election. The Commissioner's consent would have to be obtained in all cases where the group wished to file separate returns for the subsequent year. Consent would ordinarily be granted if the group could show by means of certain prescribed computations that an amendment of

the code or regulations had a substantial adverse effect on the consolidated tax liability for the year of change. A corporate group could no longer automatically terminate an election because an unrelated corporation became a member of the group.

Short Period. The income of a subsidiary for the part of its taxable year that was not included in a consolidated return (e.g., the period before the subsidiary joined the group or after it left the group) would have to be annualized in its separate return for the short period. Provisions regarding the time to file the separate return for the short period would also be changed. The test would no longer be whether the due date of the separate return, determined without regard to the affiliation, preceded the due date of the consolidated return, but rather whether the consolidated return was filed before the due date (including extensions) of the separate return.

Declaration of Estimated Tax. A group required to file a consolidated return for a taxable year would have to file a consolidated declaration of estimated tax for the succeeding taxable year if its consolidated tax liability for that year could reasonably be expected to exceed $100,000. However, if a consolidated return was not required for a taxable year, each member of the group could file a separate declaration for that taxable year and the next succeeding taxable year, even if a consolidated return was filed for either of those years.

Methods of Accounting. Members of a group with different accounting methods who joined in making a consolidated return would continue to use these separate methods as if they had each filed separate returns. Necessary adjustments would be provided for under the proposed rules for deferred intercompany transactions. Under present regulations, a single method generally is required to be used by the entire group.

3. Actions to Consider Before End of Taxable Years Beginning in 1965

Affiliated groups should consider the possible advantages of any of the following actions:

- a one-time election by the group to file a consolidated return for the taxable year beginning in 1965 in order to make tax-free intercompany distributions;
- acceleration of proposed intercompany transactions, such as sales of assets, in order to avoid the "deferred profit" rules on such transactions;

- acceleration of proposed disposal of certain high-basis, low-value assets in order to avoid the proposed "built-in deductions" rules, if existing rules would not apply, or would not have an adverse effect; and
- non-election of multiple surtax exemptions for 1965 if future consolidated returns are contemplated. This would leave the group free to take advantage of new carryover provisions relating to net operating losses, excess investment credit, etc. and to avoid the "built-in deductions" rules with respect to losses economically accrued in 1965.

DATA PROCESSING

Key Computer Personnel Expected to be Critically Scarce by 1970

A November article in *Data Processing Magazine* treats a problem that is likely to command increasing attention: "The People in EDP." The author E. R. Cattaneo observes:

> Unless manufacturers come up with revolutionary automatic programming techniques to free an ever-increasing percentage of programmers for systems work, the industry will be in a programmer-analyst bind by 1970. By that time the present complement of nearly 26,000 computers will have increased to something in excess of 50,000. Presently there are nearly 80,000 programmers and 60,000 systems analysts fussing over these 26,000 computers. To man the new systems, which will be far more sophisticated than their predecessors, the demand for programmers will double to 175,000—the demand for systems analysts, however, will more than triple, approaching 200,000 by 1970.

A scarcity of adequately trained EDP personnel has already plagued many computer installations, and the rapid turnover rate perpetuates the problem for installations that are otherwise well past the shakedown phase. Even if Mr. Cattaneo's projection of manpower need should prove to be high, the manpower scarcity is likely to be critical in the coming years.

The need for EDP managers, or "corporate systems directors" is cited by Mr. Cattaneo as posing the greatest problem. In his view, the major source of managers will have to be in-house personnel, re-educated to combine managerial skills with a basic competence in information processing technology: systems analysis, programming and operations. Whether a manager is converted to a technologist or a technologist to a manager, a prolonged training period will be required, and Mr. Cattaneo observes, "How many companies can wait three years for a manager they needed yesterday?"

The more than tripled need for systems analysts projected by Mr. Cattaneo could also pose serious problems, as can be seen by comparing the characteristics of programmers and systems analysts:

Programmer. The person who develops the complete sequence of machine instructions and routines necessary for solving a problem or processing data. He is normally concerned with an individual program within an application consisting of multiple programs.

Systems Analyst. The person who performs the analysis of a business activity to determine precisely what must be accomplished. He lays out the overall design of the new system and works out the detailed interaction of the various programs of the application. Unless he does the programming himself, he must communicate the specific requirements for each computer program to the programmer(s).

The programmer uses technical skills to produce individual parts of a large integrated structure; he is not involved with the functioning of the structure as a whole. The systems analyst uses a knowledge of the programmer's technical skills *plus* logical and integrative skills to design the total structure; his concern is to develop the integration of all the parts which will most effectively accomplish the system's objectives. Obviously not all programmers will have the required additional skills to perform satisfactorily as systems analysts, and those who do have them need a period of training and experience in order to be qualified.

Educational Facilities Needed

Although external educational facilities may be no direct solution to the problem, such facilities should play an important role in supplying competent technologists. Mr. Cattaneo observes: "Training at the college and university level cannot keep pace with industry's need for qualified personnel. Institutions of higher education need to increase emphasis on the complexities rather than the basis of computer technology. They must become involved with advanced information systems, taking aim at industry's future needs."

Even if such "increased emphasis" were to be incorporated into the curricula of our colleges this year, it would do little to relieve the immediate problem. To keep pace with the growing demands, facilities for intensified, practical and advance training are needed, both for individuals seeking career training and for organizations seeking to upgrade capable people to more advanced skills quickly.

U. S. Government View of EDP Personnel Shortage

Manning for Computer Operations. Agencies have obtained personnel for computer operations primarily by reassigning employees and by hiring inexperienced applicants who have passed the Federal Service Entrance Examination of the Civil Service Commission. Extension training programs have been required to develop the needed skills. However, the shortage of experienced personnel has necessitated the use of this method of manning computer operations. This shortage is exemplified by the considerable movement between Federal agencies of personnel who transfer, often with promotions, as they accumulate experience. The retraining and reassignment of employees to work in computer operations has been beneficial in reducing the displacement effects of automation, but this source of potentially capable employees is expected to diminish in importance, particularly with the advent of more complex applications of the computer. Consequently, a continued shortage of capable computer specialists is foreseen as the demand for them expands. Estimated increases in the requirements for personnel in special automation occupations during FY 1964 through FY 1968 approximate 52 percent over actual employment at the end of FY 1963. In this group of occupations the greatest increase in demand will be for systems analysts—85 percent.

From the "Report to the President on the Management of Automatic Data Processing in the Federal Government."

Salaries Inflated

Because of the shortage, salaries are already inflated according to Mr. Cattaneo, who observes that companies are now paying for two or three years of systems and programming experience salaries which non-EDP specialists and managers reach only after 15 or even 20 years of service.

Management Attention Needed

In view of the expanding demand for EDP personnel, limited educational resources, and the already high cost of skilled people, business managements need to plan carefully. Vulnerability to any intensified shortage might be reduced if a company were to develop:

- early, precise and frequently reviewed projections of future needs for EDP personnel, and
- a carefully conceived program for the systematic upgrading of skills.

Projecting Needs. The importance of accurately projecting computer manpower needs has already been emphasized by the difficulties some companies have had with feasibility studies which judged equipment needs and performance reasonably well but underestimated manpower needs: what the equipment and system *can* do is crucially dependent upon having the people

available to insure that they operate effectively. By projecting its needs carefully (and allowing for the possibility of a turnover rate higher than in other areas), a company can determine when and how it must take action in order to maintain the desired quality of data processing services.

Upgrading Personnel. The man who isn't upgraded by Company A may soon upgrade himself by taking a job with Company B—at a higher salary. Operators become programmers, and programmers become systems analysts; the company that encourages, controls, and—if possible—accelerates the process can hold people it would otherwise lose and thus fill jobs it might be hard to fill from the outside.

An effective upgrading program will require the early identification of the most capable people and intensive on-the-job training. In large companies—especially where EDP operations are decentralized—formal training programs could prove to be as worthwhile an investment as they've proven to be in other areas. Opportunities to send key men back to school are presently so limited by the dearth of EDP educational facilities that special in-house training programs may be desirable for smaller companies also.

Aggressive, well-planned management measures to minimize a company's EDP personnel problems in the coming years are likely to afford substantial —if unmeasurable—benefits.

FINANCIAL STATEMENTS

New SEC Policy Requires Deferred Income Taxes to be Treated As Current Liability Where Related Assets are Current

The Securities and Exchange Commission has recently issued a statement of accounting policy (Accounting Series Release No. 102) which may require some companies to make a change in the balance sheet classification of deferred income taxes. The policy applies to companies which include in current assets receivables from sales which are reported for tax purposes on an installment basis; in many cases such companies have treated the related provision for deferred tax as a noncurrent item. The SEC has taken the position that provisions for deferred income taxes related to such receivables should be classified among current liabilities. Alternatively, the Commission will permit deferred tax provisions related to receivables due in more than one year to be classified as noncurrent where those receivables are also so classified. The SEC's policy is effective for statements filed with it for fiscal years ending on or after December 31, 1965.

This matter was considered by the Accounting Principles Board in connection with its revisions of the Accounting Research Bulletins of its predecessor, the Committee on Accounting Procedure, which were incorporated in APB Opinion No. 6 (see *Newsletter*, September and November 1965). A substantial majority of the members of the Board then took the same position as that now expressed by the SEC, and the exposure draft of Opinion No. 6, issued in June, included a recommendation to this effect. The recommendation was omitted from the Board's final opinion, however, because it was considered to be an item which went beyond the intent of Opinion No. 6 which was to confirm or amend positions taken in the Accounting Research Bulletins. (This subject was not specifically covered by any such Bulletin). The Board also felt that a separate opinion on the subject should await the release of a research study on deferred income taxes now in process. Nevertheless, the Board is still in substantial agreement with its original position and the position expressed by the SEC.

We concur in the position taken by the SEC and in the viewpoint expressed by the majority of the members of the Accounting Principles Board. In our opinion, the classification of accounts receivable (or other items) among current assets calls for tax obligations which will arise upon their realization to be treated as current liabilities. The principal argument against the current liability classification of these deferred taxes rests upon the view that the tax obligation is indefinitely deferred (since tax payable on collection of receivables will be offset by tax deferred on other receivables arising from subsequent sales.) This view, in our opinion, is inconsistent with the classification of the related receivables among current assets.

We suggest that clients not presently following the treatment prescribed by the SEC review their practice in this area.

STATE TAXES

Multi-State Companies Need to Review Effects of Proposed Legislation on Interstate Taxation

Greatly changed State tax liabilities could result for many companies from the enactment of the "Interstate Taxation Act" (H.R. 11798), presently under consideration by Congress. Introduced October 22, 1965 by Representative Edwin E. Willis of Louisiana, the bill marks the first time Congress has ever attempted to enact permanent legislation governing State and local taxation of interstate commerce. H.R. 11798 is the culmination of the work of a special House Judiciary Subcommittee which was authorized more than

Figure 1 **Excluded Corporations as Defined by the "Interstate Taxation Act"**

H.R. 11798 does not preclude a State or political subdivision thereof from imposing its own net income or capital stock tax on an excluded corporation. An excluded corporation is generally defined as one which derives more than 50 per cent of its ordinary gross income from transportation, utility, insurance or banking business or from dividends, interest or royalties or which is a personal holding company. Title V of the bill requires the Secretary of the Treasury to make a study of the excluded corporations with respect to the taxation of the income derived by them from interstate commerce.

six years ago to "make full and complete studies of all matters pertaining to the taxation of interstate commerce by the States . . ." and to "report . . . the results of such studies, together with their proposals for legislation."

The legislative program in H.R. 11798 provides uniform jurisdictional standards for the assessment of:

- income taxes,*
- capital stock taxes,*
- sales and use taxes, and
- gross receipt taxes.

The bill prescribes a uniform system for apportioning income or capital among the States having jurisdiction, uniform attribution rules for gross receipt taxes and sales and use taxes, and a voluntary Cooperative System of Interstate Sales Tax Collection.

Uniform Jurisdictional Rules

The proposed jurisdictional standards are designed to provide precise criteria for judging whether the activities of an interstate company within a State are sufficient to justify taxation by that State and whether the activities of persons making interstate sales are sufficient to require the collection of sales and use taxes. Uniform standards are expected to encourage self-compliance in the business community and at the same time facilitate proper enforcement of the tax by the States.

*For the purposes of the Act, an income tax is any tax imposed on or measured by net income and a capital stock tax is any tax measured in any way by the capital of a corporation in its entirety.

H.R. 11798 provides that taxpayers would be subject to State jurisdiction as follows:

FOR CORPORATE INCOME TAXES AND CAPITAL STOCK TAXES—

only in States or political subdivisions thereof in which the corporation, other than an excluded corporation as described in *Figure 1*, has a *business location;*

FOR GROSS RECEIPTS TAXES—

only in a State or political subdivision thereof in which the seller of tangible personal property has a *business location* and the sale originates within the State.

FOR COLLECTION OF SALES AND USE TAXES—

only in States or political subdivisions thereof in which a seller of tangible personal property:

- has a *business location,*
- regularly makes household deliveries, or
- makes interstate sales, into a destination State which is a member of the cooperatively administered system for interstate sales tax collection (referred to as the "Cooperative System").

Generally, a *business location* is considered to exist where a taxpayer:

- owns or leases real property within the State, or
- has one or more employees whose services are "localized" in the State or who have a base of operations in the State, if their services are not "localized" in any State.*

An employee's services are considered "localized" in a State if all his services, except incidental services, are performed within the State. Accordingly, the existence of a sales office within a State or the presence of a salesman performing his function entirely or almost entirely within a State will subject a corporation to income and capital stock taxes regardless of whether the sales are purely interstate sales, i.e. accepted or approved outside the State and filled from a stock of goods located outside the State. However, a corporation which keeps inventory in a public warehouse — or on consignment — within a State and none of whose employees operate principally within the State or have a base of operations there would not be subject to income tax, capital stock tax or gross receipts tax.

Corporate Net Income Taxes and Capital Stock Taxes

Just as the need is great for uniform jurisdictional standards, there is a need for a uniform system of dividing income and capital among States. The

*Where a corporation does not own or lease real property in any State or have an employee principally located within any State, the corporation's *business location* will be considered to be in the State in which its principal place of business is located or in the State of its legal domicile if it has no principal place of business in any State.

Figure 2 **Adjustments to Federal Taxable Income which States Would be Prohibited to Make**

- Any adjustment which would shift income or deductions to a period different from that to which they are attributed for Federal income tax purposes.
- Any adjustment to the amount deducted for depreciation or amortization with respect to property which is subject to such an allowance for both State and Federal purposes.
- Any adjustment which would change the adjusted basis of property for purposes of determining gain or loss on its disposition where such property is subject to depreciation or amortization under both Federal and State law.
- Any adjustment which would add to Federal taxable income:
  - taxable income of a corporation incorporated abroad where such income for Federal tax purposes is not taxable because it is considered to be from sources outside the U.S., or
  - interest on obligations of the United States which is exempt from tax under Federal law.
- Any adjustment to Federal taxable income which would result in geographical discrimination against interstate businesses; examples of such adjustments are:
  - the allowance of additional depreciation deductions for in-state property, and
  - the allowance of deductions for charitable contributions only if made to local charities.

objectives of uniform allocation are the same as those established for conformity of jurisdiction, i.e., simplicity of taxpayer compliance and tax administration. Accordingly, the bill provides a common income tax base and a uniform two-factor formula for allocating a company's capital and income among the States which have jurisdiction.

The Income Tax Base. It is proposed in H.R. 11798 to use Federal taxable income as the starting point in determining the entire taxable income to be apportioned to a State. The State would be permitted to require adjustments to Federal taxable income in arriving at net income taxable by the State, subject to restrictions outlined in *Figure 2*. It was the Judiciary Subcommittee's view that the use of Federal taxable income as a starting point was

consistent with its attempt to ease the burden of tax compliance and tax administration. Similarly, the allowance of limited State adjustments to Federal taxable income would permit the States to express their own tax policies.

The Two-Factor Apportionment Formula. H.R. 11798 would require the amount of net income or capital attributable to the State or political subdivision to be determined by multiplying the tax base by an equally weighted two-factor formula of property and payroll:

Property Factor. A corporation's property factor for any State would be the ratio:

$$\frac{\text{the average value of the property used within the State}}{\text{the average value of property used within all States wherein the taxpayer has a business location.}}$$

The property factor would include all real and tangible personal property owned or leased other than inventories, property permanently retired from use, and tangible personal property rented to another person for a term of one year or more. Values used in the property factor would be:

- for property owned by the taxpayer: original cost,
- for leased realty: eight times the annual gross rent, and
- for leased personalty: fair market value at the time property is acquired.

Payroll Factor. A corporation's payroll factor for any State would be the ratio:

$$\frac{\text{the payroll for employees located in the State}}{\text{the total payroll for all States within which employees are located.}}$$

An employee would be considered located in a State if he performs his services entirely within the State (except for incidental services which may be performed outside the State) or if he performs part of his services within the State and is connected with a company office located within the State.

The "payroll" for purposes of the factor would include all wages, as defined for purposes of Federal income tax withholding, except:

- wages in excess of $40,000 paid in one year to any one employee, and
- wages paid to retired employees.

This proposed uniform method of allocating income and capital is predicated upon the House Judiciary Subcommittee's conclusions that:

- a formula method of apportionment — as opposed to a specific allocation or separate accounting method — will provide the most workable measure of a taxpayer's income or capital attributable to a particular taxing jurisdiction, and
- the formula's omission of a third factor: receipts, will not have a significant effect on the tax revenues of any State.

Administrative Provisions for Apportionment Formula. Although the administration of State income taxes would remain substantially with the States, H.R. 11798 provides for certain administrative functions in connection with the division of income to be assigned to the Treasury Department. These functions would fall into three general categories:

1. the issuance of rules and regulations with respect to the division of income;
2. the modification, in rare and extraordinary circumstances, of the prescribed apportionment formula, including the right to use a method of separate accounting, in cases where strict adherence to the formula would produce an inequitable result, and
3. the establishment of a Federal Apportionment Board within the Treasury Department for purposes of resolving multistate tax disputes on the administrative level, with provisions for review by the U. S. Tax Court and further judicial review.

Division of Income of Multicorporate Enterprises. The House Judiciary Subcommittee recognized that corporations which are controlled directly or indirectly by the same interests sometimes operate as a single unitary business and that the results from the operations of this over-all business activity often cannot accurately be determined on a separate company basis. It was the Subcommittee's opinion that "separate accounting among affiliated corporations is often as inappropriate and as troublesome as is separate accounting among the branches of a single corporate entity." H.R. 11798 would make the following provisions:

- A State or political subdivision thereof may require a corporation having a business location therein to determine the amount of its net income attributed to the State by consolidation with one or more affiliated corporations, other than excluded corporations.
- A corporation shall have the privilege of determining its net income attributed to a State by consolidation with one or more affiliated corporations, other than excluded corporations.

- An affiliated group is considered to exist when there is common ownership of more than 50 per cent of the voting stock of each member of the group. An excluded corporation shall not be considered in determining whether two or more other corporations are affiliated.

Presumably a State could, under this proposal, require the filing of a consolidated return whenever the filing of such a return would result in a greater tax to the State. This requirement could be enforced without regard to the unitary nature of the business or the reliability of the separate company books and records. Likewise, every taxpayer apparently could elect to file on a consolidated basis in the States where such a filing would result in a lesser tax.

Sales and Use Taxes

Under the present system, a vendor can be required to collect a use tax on sales he makes into other States in which he has no place of business. The House Judiciary Subcommittee concluded that this system is ineffective and has suggested two general approaches towards a solution to this problem.

The first approach is to limit, by clear definition, the jurisdictional standards by which an out-of-state vendor would be required to collect a use tax. A clearly definable test of the seller's liability would provide a more enforceable system of seller collections but would, however, limit the power of the States to the collection of sales and use tax on sales made by vendors having a business location within the State or regularly making household deliveries into the State.

To mitigate the restrictiveness of the first approach, the second approach would permit States to adopt a Federally administered uniform system that would embody a broader jurisdictional standard and yet, in the Subcommittee's opinion, provide for effective enforcement of collections by nationwide sellers. H.R. 11798 leaves the choice between these two approaches to the individual States by making the adoption of a uniform sales and use tax law optional.

Uniform Rules for Locating Sales and Imposing a Use Tax. Irrespective of whether a State chooses to accept the general jurisdictional norms or elects to adopt the Uniform Sales and Use Tax Law, H.R. 11798 includes the following general provisions, which would apply under either system:

> *Locating Sales.* A State would be permitted to impose a sales tax or require a vendor to collect a sales or use tax only on sales of tangible personal property physically delivered into the State.

Effective Dates

The provisions of H.R. 11798 would apply in the case of corporate net income taxes with respect to taxable years ending more than two years after the date of the enactment of the act, and in the case of capital stock taxes with respect to taxes for which the valuation date is later than the close of the first taxable year ending more than two years after the date of the enactment of the act. For gross receipts and sales or use taxes, the proposals would take effect two years after the date of the enactment of the act.

IN BRIEF

SEC Requires "Information Statements" for Stockholder Meetings after March 14. Some time ago the SEC proposed to adopt a new regulation to deal with situations where the management of a registered company decided not to solicit proxies in order to avoid making disclosures required by the SEC's proxy rules. The new regulation has now been adopted. In connection with all meetings of holders of a class of securities registered pursuant to Section 12 of the 1934 Exchange Act, the issuer is now required to send an "information statement" to every security holder entitled to vote and from whom a proxy is *not* solicited on behalf of the management. The information statement must contain substantially the same information as that which would be required in a proxy statement if proxies were solicited. In the case of an annual meeting, the issuer is also required to furnish security holders with an annual report containing certified financial statements. The new regulation applies to any meeting held on or after March 15, 1966.

* * *

World Trade Fair List Issued. U. S. companies wishing to increase sales abroad will be interested in the 1966-67 World Trade Fair List issued recently by the Department of Commerce. More than 600 trade fairs in 40 countries are scheduled during the next two years. Trade fairs have been an important medium for selling U.S. products abroad, particularly for companies that do not have comprehensive overseas sales representation. Copies of the 1966-67 World Trade Fair List may be obtained from the *Bureau of International Commerce (8197), Commerce Department, Washington, D.C. 20230.* Also, companies interested in developing trade with eastern Europe may wish to consider the desirability of exhibiting their products in the Leipzig Trade Fair in East Germany, scheduled for March. The ban on U.S. participation has been lifted, and several U.S. companies have registered.

* * *

Treasury Stretches Meaning of "More Than Six Months." The Treasury has finally found a way to add complexity to the simple rule that property must be held for more than six months in order to qualify for long-term capital gain. It now states that property acquired on the last day of any calendar month must be held at least until the first day of the seventh succeeding month in order to qualify.

The new rule puts a premium on calendar-watching. For example, property acquired January 30 and disposed of July 31 will qualify for long-term gain, since the 30th is not the last day of January. But property acquired April 30 and disposed of October 31 will no longer qualify—it must be held until November 1. In leap years, property acquired February 28 will qualify in two days less than property acquired on that date in non-leap years.

The new rule is applicable to dispositions of property after April 10, 1966. It will undoubtedly be tested in the courts.

For purposes of timing transactions, taxpayers should be sure to note that when securities are purchased or sold through a broker or dealer, the "trade dates" and not the "settlement dates" determine the holding period.

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Newsletter Subject Index and Binders. With this issue, we are mailing a Subject Index covering the contents of the *Newsletter* during 1965. Binders for filing the *Newsletter* are available upon request to the *Lybrand Newsletter*, P. O. Box 162, New York, N. Y. 10004. Copies of most back issues are also available upon request.

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