

*Explanation of provisions.*—The bill amends present law to provide tax treatment with respect to per-unit retain certificates which parallels, in general, the tax treatment applicable with respect to patronage dividends. Providing essentially the same treatment for per-unit retain certificates means, generally, that they are to be treated as income to the patron in the year in which the certificates are issued, if the patrons give their consent in writing to the inclusion of the face amount of these certificates in their income or if there is a provision in the by-laws or charter of the cooperative indicating that membership in the cooperative represents consent to such treatment. Under the amendment, the cooperative is permitted to take a deduction in arriving at gross income for a per-unit retain certificate when issued, but only when the certificate qualifies for the treatment specified above in the hands of the patron. Otherwise, the amount involved is deductible by the cooperative only at the time the certificate is redeemed.

Adoption of this provision is not intended to reflect on the validity of the regulations recently issued by the Treasury Department with respect to per-unit retain certificates, nor is it intended to reflect on the deductibility in the past of per-unit retain certificates to cooperatives or the includibility in the past of such certificates in the income of patrons.

(i) *Treatment of per-unit retains by cooperatives.*—The amendment provides that no decrease is to be made in the gross income of a cooperative because of per-unit retain allocations to patrons except for amounts paid in “qualified per-unit retain certificates” or in redemption of “nonqualified per-unit retain certificates.” (Both of these terms are explained subsequently.)<sup>8</sup> If a cooperative has no taxable income for the year in which it redeems nonqualified per-unit retain certificates, the cooperative will, in effect, be permitted to carry back the deduction or exclusion to the year in which the certificate was issued.

(ii) *Treatment of per-unit retains by patrons.*—Under the amendment, a patron is required to include in his gross income the amount paid to him in qualified per-unit retain certificates and the amount received by him on the redemption, sale, or other disposition of nonqualified per-unit retain certificates.

(iii) *Definitions and special provisions.*—The amendment provides definitions of the terms used in providing for the treatment of per-unit retains. Under the first of these, the amount considered paid by a cooperative and received by a patron as a result of the issuance of a qualified per-unit retain certificate is to be the certificate’s stated dollar amount. The term “per-unit retain allocation” is defined, in general, as an amount paid (except amounts paid in money or other property) to patrons with respect to products marketed for them which is fixed without regard to the net earnings of the cooperative. The term “per-unit retain certificate” is defined to mean any written notice which discloses to the recipient the stated dollar amount of a per-unit retain allocation. The term “qualified per-unit retain certificate” is defined to mean a per-unit retain certificate which the patron has agreed to include in his income at the stated dollar amount. For this purpose, a

<sup>8</sup> A special rule permits cooperatives to continue their existing practices with respect to the timing of the issuance of per-unit retain certificates for products marketed under a pooling arrangement and to take the tax deduction at the time the certificates are issued.