

of the Acts of 1949, relating to the rate of tax on investment and other income of individuals.

Section 230 (c) of Article 81 of the Code imposes an income tax on taxable net income in the following amounts:

“* * * Such tax shall be at the rate of five percent (5%) on the amount of the *taxable net income* up to but not exceeding the amount of the investment income and at the rate of two percent (2%) on the balance, if any, of the *taxable net income*.”

The phrase “net income” is defined by Section 227 to mean gross income less deductions and “taxable net income” is defined to mean net income less personal exemptions.

It will be noted that Section 230 (c) imposes a tax at the rate of five percent (5%) on the amount of the “taxable net income” without regard to whether it is derived from gross investment income or gross ordinary income. The amount of “taxable net income” subject to tax at the rate of five percent (5%) is limited to an amount not greater than gross investment income. The practical effect of these provisions is that deductions and personal exemptions of a taxpayer apply *only* to the taxpayer’s ordinary income and not to his investment income unless the sum of deductions and personal exemptions is greater than ordinary income. In the latter event, to the extent that the sum is greater than ordinary income it may be offset against investment income.

Senate Bill No. 104 would impose the tax “at the rate of two percent (2%) on the first \$500 of *taxable net investment income* and at the rate of five percent (5%) on the balance of the taxable net investment income and at the rate of two percent (2%) on the balance, if any, of the taxable net income.”

Nowhere in Article 81 is the phrase “taxable net investment income” defined. Obviously, Senate Bill No. 104 contemplates that some, if not all, of a taxpayer’s deductions and personal exemptions are to be offset against gross investment income in determining the rate of tax because it speaks of a tax on “net investment income”. Obviously, Senate Bill No. 104 also contemplates that some, if not all, of a taxpayer’s deductions and personal exemptions are to be offset against gross ordinary income in determining the rate of tax because it speaks of a tax on “net income”. But Senate Bill No. 104 fails to specify how deductions and personal exemptions are to be apportioned between that portion which is to be offset against gross investment income and that portion which is to be offset against gross ordinary income. And, nowhere in any of the other provisions of Article 81, is the formula for such apportionment set out. In this respect, Senate