

Conclusion.—The several lines of cases discussed above do not outline very definitely the boundaries of the term “income,” with reference to the necessity for deductions, largely because Congress has, in general, allowed those deductions which business practice dictates, and thus the question has not been put to the test. Notwithstanding the *Pollock* case, it is likely that the Court today would accept the view that an income tax is an excise tax. Such a tax can constitutionally be measured by gross income. The Court, apparently following this analysis, has repeatedly stated, and in some cases it has held, that deductions are wholly within the power of Congress to grant, condition, or deny; and a number of instances where gross income has been taxed can be cited. Hence, “income,” as used in the amendment, has in effect been given at times the meaning of “gross income.” Nevertheless, the general emphasis the Court has placed upon the necessity for a gain or profit, coupled with such decisions as *Doyle v. Mitchell Bros. Co.*, indicates that it would be unwise to assume that “income” in the amendment means gross receipts. With the possible exception of the mining depletion cases, which seem to stand upon a peculiar footing of their own, some provision for the recoupment of the cost of goods sold, or of the investment, must be made.