

permitted by section 2011 even though only a portion of the property subject to Federal tax was taxed by a State. The amount of credit permitted by section 2011 in the case of nonresident aliens should be limited to that portion of the credit allowed the estate which is allocable to property taxed by both the State and the Federal Government.

Our gift tax law as it applies to nonresident aliens should be revised. Under present law a nonresident alien doing business in the United States is subject to gift tax on transfers of U.S. intangible property. This rule has little significance from the standpoint of revenue and tax equity. Therefore, our law should be amended to provide that transfers of intangible property by a nonresident alien, whether or not engaged in business in the United States, are not subject to gift tax. Gifts or tangibles situated in the United States which are owned by nonresident aliens will continue to be subject to U.S. gift taxes.

6. Expatriate American citizens: Subject the U.S. source income of expatriate citizens of the United States to income tax at regular U.S. rates and their U.S. estates to estate tax at regular U.S. rates, where they surrender their U.S. citizenship within 10 years preceding the taxable year in question unless the surrender was not tax motivated.

As a result of the proposed elimination of graduated rates, taken together with the proposed change in our estate tax as it applies to nonresident aliens, an American citizen who gives up his citizenship and moves to a foreign country would be able to very substantially reduce his U.S. estate and income tax liabilities.

While it may be doubted that there are many U.S. citizens who would be willing to give up their U.S. citizenship no matter how substantial the tax incentive, a tax incentive so great might lead some Americans to surrender their citizenship for the ultimate benefit of their families. Thus, it seems desirable, if progressive rates are eliminated for nonresident aliens and our estate tax on the estates of nonresident aliens is significantly reduced, that steps be taken to limit the tax advantages of alienage for our citizens.

The recommended legislation accomplishes this by providing that a nonresident alien who surrendered his U.S. citizenship within the preceding 10 years shall remain subject to tax at regular U.S. rates on all income derived from U.S. sources. A similar rule would apply for estate tax purposes to the U.S. estates of expatriate citizens of the United States. Thus, the U.S. property owned by expatriates would be taxed at the estate tax rates applicable to our citizens (but without the \$60,000 exemption, marital deduction and other such provisions applicable to our citizens), in cases where the alien decedent's surrender of citizenship took place less than 10 years before the day of his death. The \$30,000 exemption granted nonresident aliens would be allowed to expatriate citizens.

To prevent an expatriate from avoiding regular U.S. rates on his U.S. income by transferring his U.S. property to a foreign corporation, or disposing of it overseas, the recommended legislation treats profits from the sale or exchange of U.S. property by an expatriate as being U.S. source income. To preclude the use of a foreign corporation by an expatriate to hold his U.S. property and thus avoid U.S. estate taxes at regular U.S. rates, an expatriate is treated as owning his

pro rata share of the U.S. property held by any foreign corporation in which he alone owns a 10 percent interest and which he, together with related parties, controls. Furthermore, the recommended legislation makes gifts by expatriates of intangibles situated in the United States subject to gift tax.

These provisions would be applicable only to expatriates who surrendered their citizenship after March 8, 1965, and would not apply if contravened by the provisions of a tax convention with a foreign country. Moreover, they would not be applicable if the expatriate can establish that the avoidance of U.S. tax was not a principal reason for his surrender of citizenship.

7. Retaining treaty bargaining position: Provide that the President be given authority to eliminate with respect to a particular foreign country any liberalizing changes which have been enacted, if he finds that the country concerned has not acted to provide reciprocal concessions for our citizens after being requested to do so by the United States.

One difficulty which may arise from the liberalizing changes being proposed in U.S. tax law is that it may place the United States at a disadvantage in negotiating concessions for Americans abroad as respects foreign tax laws. Moreover, the failure to obtain concessions abroad may have an effect upon our revenues since the foreign income and estate tax credits we grant our citizens mean that the United States bears a large share of the burden of foreign taxation of U.S. citizens. To protect the bargaining power of the United States the President should therefore be authorized to reapply present law to the residents of any foreign country which he finds has not acted (when requested by the United States to do so, as in treaty negotiations) to provide for our citizens as respects their U.S. income or estates substantially the same benefits as those enjoyed by its citizens as a result of the proposed legislative changes. The provisions reapplied would be limited to the area or areas where our citizens were disadvantaged. Furthermore, the provisions reapplied could be partly mitigated, if that were desirable, by treaty with the other country.

It is essential, if we are to revise our system of taxing nonresident aliens as is being suggested, that this recommendation be adopted. Otherwise, we risk sacrificing the interests of our citizens subject to tax abroad and reducing our revenues in an effort to simplify the taxes imposed upon nonresident aliens.

8. Quarterly payment of withheld taxes: Provide that withholding agents collecting taxes from amounts paid to nonresident aliens be required to remit such taxes on a quarterly basis.

Under the present system, withholding agents are required to remit taxes withheld on aliens during any calendar year on or before March 15 after the close of such year. This procedure varies considerably from that applicable to domestic income tax withheld from wages and employee and employer FICA taxes, where quarterly (in some cases monthly) payments are required.

Withholding on income derived by nonresident aliens should be brought more closely into line with the domestic income tax system. There is no reason to permit withholding agents to keep nonresident aliens' taxes for periods which may exceed