

14 REMOVE TAX BARRIERS TO FOREIGN INVESTMENT IN U.S.

SEC. 11. TREATY OBLIGATIONS.

(a) **IN GENERAL.**—No amendment made by this Act shall apply in any case where its application would be contrary to any treaty obligation of the United States.

(b) **ABSENCE OF PERMANENT ESTABLISHMENT.**—In determining the rate of tax under section 871(b)(2) or section 882(a)(2), as amended by this Act, on income which is not business income, a nonresident alien individual or foreign corporation shall be deemed, for purposes of applying any treaty obligation of the United States, not to have a permanent establishment in the United States at any time during the taxable year.

TREASURY DEPARTMENT,
Washington, D.C., March 8, 1965.

PROPOSED LEGISLATION TO INCREASE FOREIGN INVESTMENT IN THE UNITED STATES

The Treasury today submitted to the Congress proposed tax legislation designed to increase foreign investment in the United States.

Drafts of the proposed legislation, titled "An Act To Remove Tax Barriers to Foreign Investment in the United States," were sent to Speaker McCormack and Vice President Humphrey. Chairman Mills of the House Ways and Means Committee has stated that he will introduce it.

The proposed legislation is part of President Johnson's program to improve the U.S. balance of payments, which was announced in his message to the Congress on February 10, 1965.

The legislation contains proposed changes in the present tax law. These changes are designed to stimulate foreign investment in the United States by removing existing tax barriers to such investment. The proposed changes grew out of the Treasury study of recommendations made to President Johnson last April by the Task Force on Promoting Increased Foreign Investment in U.S. Corporate Securities. This task force was composed of leaders in the business and financial community and was headed by the then Under Secretary of the Treasury, Henry H. Fowler.

The changes affect the taxation of foreign individuals and foreign corporations. Many of the provisions in the present law which will be revised or eliminated by the proposed legislation have tended to complicate or inhibit investment in U.S. corporate securities without generating any significant tax revenues.

The total annual revenue loss from enactment of the proposed legislation is estimated to be less than \$5 million.

Foreign purchases of U.S. corporate securities are the greatest single source of long-term capital inflow for the United States. Between 1956 and 1963, such purchases averaged \$190 million a year. During that time the value of foreign-held stocks outstanding more than doubled—going from \$6.1 billion to \$12.5 billion. There is no estimate of the immediate benefit from the proposed legislation in terms of increased investment, but over time it is expected that the legislation would result in increased purchases of such securities of roughly \$100 million to \$200 million a year.

The bill proposes three major tax changes affecting foreigners and foreign corporations and a number of minor changes. The major changes are:

1. Reduction of the rate of U.S. estate tax applicable to foreigners to bring the tax treatment of foreigners more in line with the rates usually paid by American citizens, and with general international practice. The reduction would replace the present maximum rate of 77 percent for foreigners with a maximum rate of 15 percent, and replace the present \$2,000 exemption with a \$30,000 exemption.

2. Elimination of the provision in the present law which makes foreigners' nonbusiness income, such as dividends and interest, subject to tax at regular U.S. individual tax rates if it exceeds \$21,200. The tax on such income would be limited to the flat 30 percent withholding rate provided by statute or any lower withholding rate which may be provided by treaty. Business income would continue to be taxed at regular U.S. rates if the foreigner is engaged in business here.

3. Elimination of the present provision for taxation of capital gains realized by a foreigner simply because he was present in the United States at the time of the particular transaction. At the same time, the period that a foreigner may spend in the United States, without becoming subject to tax on all U.S. capital gains for the taxable year, would be extended from 90 days to 183 days.