

United States. Particularly in the case of nonresident alien decedents who have only a small amount of U.S. property in their estates, present U.S. rates and the limited exemption provided result in an excessive effective rate of estate tax. The proposed changes correct this situation. The new rates will produce for nonresident aliens' estates an effective rate of tax on U.S. assets which in many cases is comparable to that applicable to U.S. citizens who may avail themselves of the \$60,000 exemption and marital deduction (which are not available to nonresident aliens).

The following figures show the effective rates for nonresident aliens under present law, and the effective rates produced by the proposed exemption and rates as compared to those applicable to the estates of U.S. citizens electing and not electing the marital deduction:

U.S. gross estate	Nonresident alien under present law	Nonresident alien under proposed law	U.S. citizen with marital deduction	U.S. citizen without marital deduction
\$60,000-----	12.5	2.0	-----	-----
\$100,000-----	17.3	3.0	-----	3.0
\$500,000-----	25.8	7.4	8.0	22.1
\$1,000,000-----	38.8	8.8	11.1	26.7
\$5,000,000-----	43.0	12.6	16.9	42.3

As part of this revision of the estate tax, the situs rule with respect to bonds should be changed. The present rule, very frequently modified by treaty, is that bonds have situs where they are physically located. This rule is illogical, permits tax avoidance, and is not a suitable way to determine whether bonds are subject to an estate tax as their location is one of their least significant characteristics for tax purposes. Other intangible debt obligations are presently treated as property within the United States if issued by or enforceable against a domestic corporation or resident of the United States. Accordingly, it is recommended that our law be amended to provide that bonds issued by domestic corporations or domestic governmental units and held by nonresident aliens are property within the United States and therefore subject to estate tax.

Furthermore, a present defect in the operation of the credit against the estate tax for State death taxes in the case of nonresident aliens should be corrected. Under present law the estate of a nonresident alien may receive the full credit 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 of 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 surrendered 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 re-