

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

STATEMENT OF TREASURY POSITION REGARDING THE PROPOSAL CONTAINED IN H.R. 5916 TO AMEND ESTATE TAX PROVISIONS APPLICABLE TO NONRESIDENT ALIEN DECEDENTS

H.R. 5916 would amend our present system of taxing the estates of nonresident alien decedents by increasing the present \$2,000 exemption to \$30,000, and substituting a 5-10-15 percent rate schedule for the regular U.S. estate tax rates (ranging up to 77 percent) now applicable to the estates of such decedents. The Task Force on Promoting Increased Foreign Investment in U.S. Corporate Securities recommended (recommendation No. 29) that U.S. estate taxes on intangible personal property be eliminated.

The changes contained in H.R. 5916 should result in lower estate taxes on nonresident aliens and thereby improve the climate for foreign investment in the United States. Present U.S. rates and the limited exemption applicable to nonresident alien decedents result in an excessive effective rate of estate tax. These rates have resulted in proper concern that our estate tax is a deterrent to foreign investment in the United States. The proposed changes correct this situation. The new rates effect a sweeping reduction in the present effective rate of tax—from almost 80 to 100 percent of the present tax is eliminated. 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 avail themselves of the \$60,000 exemption and marital deduction (which are not available to nonresident aliens). The attached tables show the effective rates and dollar amounts of U.S. estate tax for nonresident aliens under present law and the effective rates produced by the proposed exemption, compared with the rates and tax applicable to the estates of U.S. citizens electing and not electing the marital deduction.

It should be pointed out that even the task force did not recommend complete elimination of the estate tax. Even under the task force recommendation, the estate tax would remain applicable to all tangible property, including real property and personalty, owned by a nonresident alien decedent.

The objections to the task force approach are as follows:

(1) Although we receive only \$5 million in revenue annually from our estate tax on nonresident aliens, it would appear inequitable to completely relieve nonresident aliens holding U.S. intangible property from estate tax when U.S. citizens are subject to an estate tax.

(2) Elimination of the tax on intangibles, which constitute between 85 and 95 percent of the taxable assets held by nonresident aliens, would remove the principal impact of the tax. Yet the Internal Revenue Service would be required to maintain enforcement activities to collect the tax in those cases where tangible assets were held. Elimination of the tax on intangibles would discriminate against aliens who chose to invest in real property, for example, rather than stocks. In such a case, most aliens investing in real estate would probably incorporate their investments to avoid the tax, reducing the tax base even further.

(3) The matter of international tax rules governing the estate tax has been discussed in the Organization for Economic Cooperation and Development (OECD). Some of the countries are willing to eliminate by treaty the estate tax on intangibles owned by foreign decedents. This is not true, however, of the United Kingdom, Canada, and Japan. Where countries have registered shares rather than bearer shares—such as the United States—they are apparently less willing to eliminate their estate tax on intangible property where foreigners are involved. If other countries begin to utilize registered shares more frequently, it may be expected that they might wish to retain their estate taxes on intangibles since the likelihood of collecting the tax would be far greater.

(4) Elimination of the tax on intangibles would mean that we would be less likely to receive information on the foreign assets of U.S. estates. Our ability to exchange information on alien-owned property in the United States under our treaty arrangements enables us to obtain information about our citizens who die, and have assets abroad, and we may be handicapped here in the future if we have little or no information to exchange. The same may be true of information which other countries may have about Americans who die abroad with assets here.

(5) The changes embodied in H.R. 5916 accomplish the principal objective intended by the task force recommendation and yet do not raise the problems discussed above.

The increase in exemption and reduced rates proposed in H.R. 5916 will bring U.S. effective estate tax rates on nonresident aliens to a level somewhat higher than those imposed upon resident estates in Switzerland, Germany, France, and the