*Section 4(e)*

In order to permit exclusion from personal holding company tax section 542(c)(7) requires that all the stock of a corporation outstanding during the last half of the taxable year be owned by nonresident alien individuals, "whether directly or through other foreign corporations." Consideration should be given to a revision of the quoted phrase, which appears in present law, to cover ownership through foreign trusts, estates or partnerships where all of the partners or beneficiaries are nonresident aliens. (Compare section 958(a)(2).)

*Section 4(g)*

It is suggested that consideration be given to limiting the dividends received deduction provided by section 245(a) for dividends from foreign corporations which are subject to tax under chapter 1 to those received from a foreign corporation which has derived 80 percent or more of its gross business income from sources within the United States rather than to those which have derived 50 percent or more of the gross income from sources within the United States, as presently provided. This change would be consistent with section 2(b) of the bill, which amends section 861(a)(2)(B) so that dividends received by a foreign corporation engaged in a trade or business within the United States would be considered U.S. source income unless less than 80 percent of the gross business income of the foreign corporation is derived from sources within the United States.

*Section 6: Foreign tax credit*

Section 6 of H.R. 5916 amends the foreign tax credit provisions of code section 901 to eliminate the "similar credit" requirement in the case of nonresident aliens, subject to reinstatement by the President where a foreign country on request refuses to provide a similar credit for U.S. citizens.

While the proposed statutory language handles this change satisfactorily, there is an additional substantive change which probably was intended but which the explanatory material submitted by the Treasury does not cover. Under existing section 901(b)(3), if a similar credit is not granted by the native country of an alien resident of the United States or Puerto Rico, no credit will be given such person for taxes paid or accrued to any foreign country. However, no similar credit requirement appears in section 901(b)(2), having to do with taxes paid to a possession of the United States, and hence a nonresident alien is entitled to a credit for taxes paid to a U.S. possession even where no foreign tax credit is available under section 901(b)(3). On the other hand, under section 901 as amended by section 6 of the bill, a presidential proclamation denying a tax credit to alien residents of the United States or Puerto Rico apparently would apply to the entire credit otherwise allowable under new section 901(b), and therefore would deny the credit for taxes paid to a U.S. possession as well as taxes paid to foreign countries.

It should be made clear that under the proposed legislation, as under existing law, a resident alien will have the right to protest a determination by the executive department that a foreign country does not satisfy the similar credit requirement. The fact that such a finding by the President is a condition precedent to his proclamation may indicate that this finding is a matter of discretion which