income from sources within the United States. The proposed amendment would also exclude interest paid by foreign branches of U.S. banks without regard to whether the depositor was engaged in business in the United States.

Competitive disadvantages to U.S. banks operating abroad

The proposed amendment would remove an ambiguity in existing law that has imposed a severe hardship on U.S. banks operating through foreign branches, by placing them at a competitive disadvantage in their efforts to offer services to their foreign customers comparable to those offered by foreign banks. The question of whether a foreign corporation is engaged in business in the United States is frequently not free from doubt, particularly where the foreign corporation is affiliated in some manner with a U.S. corporation. While the foreign corporation would prefer to keep its time deposits with a foreign branch of a U.S. bank, it frequently deposits its money with a foreign bank because it fears that in the event it should at some later date be held to be engaged in business in the United States, interest income from the foreign branch of the U.S. bank would be taxable, while interest income from a foreign bank would clearly not be taxable as income from sources within the United States.

Separate identity of foreign branch banks

The proposed amendment comports with existing nontax law and banking practice in treating a foreign branch of a U.S. bank as a separate foreign corporation. This proposal recognizes the realities of overseas banking, where practically for all but tax purposes a foreign branch is regarded as a separate foreign corporation. For example not only is a foreign branch of a U.S. bank exempt from certain regulations of the Federal Reserve Board of Governors, such as those limiting interest rates it may pay, but for the express purpose of permitting foreign branches to compete on equal terms with local banks of other foreign countries, the same regulations also may permit the foreign branch to exercise powers which a domestic U.S. bank could not exercise (12 U.S.C. § 604(a). H. Rept. 2047, 87th Cong., 2d sess. 1962, United States Code Congressional & Administrative News, p. 242).

In addition, foreign branches of U.S. banks are subject to the regulatory laws of a foreign country. Deposits in these branches are regarded for nontax purposes as payable there and only there; thus, amounts standing to the credit of a depositor of a Havana branch of a bank with a head office in New York have been held not subject to attachment served by process on the head office. *Clinton Trust Co.* v. *Compania Azucarera Central, Mabay*, (S.A., 172 Misc. 148, 14 N.Y.S. 2d 743 (Sup. Ct. N.Y. Co. 1939) aff'd 258 App. Div. 780). A nonresident alien depositor in a foreign branch has no substantial contacts with the United States as to that deposit whether or not he is otherwise engaged in business in the United States. The deposit is made outside the United States pursuant to an agreement made outside the United States and under the laws of a foreign country. The funds derived by foreign branches of U.S. banks are almost always loaned or invested outside the United States.

It should be kept in mind that foreign branches of American banks are not merely windows through which deposits are made and with-