

(2) who was a nonresident of the United States throughout the 10-year period ending with the date upon which he lost U.S. citizenship.

2. *U.S. estate taxes on intangible personal property of nonresident aliens*

The Fowler Committee's recommendation No. 29 is as follows (p. 24):¹

Recommendation No. 29.—Eliminate U.S. estate taxes on all intangible personal property of nonresident alien decedents:

U.S. estate taxes, especially as applied to shares of U.S. corporations owned by nonresident alien decedents (which are subject to U.S. estate taxes irrespective of whether they are held in this country or abroad), are believed to be one of the most important deterrents in our tax laws to foreign investment in the United States. U.S. estate tax rates are materially in excess of those existing in many countries of the world and, despite the treaties in effect with several countries, the taxes paid on a nonresident alien decedent's estate, some portion of which is invested in the United States, generally would be greater than those paid on a nonresident alien decedent's estate, no portion of which is invested in the United States. We understand that *the revenues received by the United States as a result of estate taxes levied on intangible personal property in estates of nonresident alien decedents are not large.* [Emphasis added.]

The adoption of recommendation No. 29 of the Fowler committee will establish a rule easily understood by foreigners and will do more to encourage foreigners to purchase securities of U.S. corporations than will the limited approach of special estate tax rates for foreigners.

3. *Provisions disregarding the corporate entity conflict with estate tax conventions*

The proposed new section 2107(b), pages 38-39 of H.R. 5916, disregards the separate existence of foreign corporations in certain cases when a U.S. citizen expatriates himself in order to have the reduced estate tax rates apply to his estate.

The adoption of this principle of disregarding the corporate entity appears to be in conflict with estate tax conventions, for example, the United States-Canada Estate Tax Convention signed February 17, 1961 as interpreted by the Committee on Foreign Relations.²

Under section 2107(b) if a foreign decedent owns a stated percentage of the shares of a foreign corporation which owns assets situated in the United States, the value of a stated proportion of the assets of the foreign corporation would be included in his U.S. gross estate. Under the situs rules of the United States-Canada Estate Tax Convention shares of stock of a foreign corporation have a situs outside the United States and real estate located in the United States has a situs in the United States for taxation purposes. The Foreign Relations Committee specifically dealt with the situation of a foreign corporation owning various types of property. That committee acted

¹ Report to the President of the United States from the Task Force on Promoting Increased Foreign Investment in U.S. Corporate Securities, etc., dated Apr. 27, 1964.

² Tax Treaties, Commerce Clearing House, No. 1318Q gives the text of the Foreign Relations Committee's Report on the United States-Canada Estate Tax Convention.