

nationals if they felt that their funds would not be subject to estate tax by the U.S. Government.

Very respectfully yours,

CHARLES W. BUEK, *President.*

COMMENTS BY HENRY S. CONSTON, OF WALTER & CONSTON, NEW YORK, N.Y., ON H.R. 5916, AN ACT TO REMOVE TAX BARRIERS TO FOREIGN INVESTMENT IN THE UNITED STATES

ESTATE TAXES

H.R. 5916 has recognized the deterrent effect which the present method of taxing nonresident alien estates has on direct foreign investment in U.S. securities by providing a limited measure of relief in this area. It is submitted that this relief in some respects is misplaced and will benefit owners of non-investment-type assets which serve to increase the outflow of gold.

TAX BASE

Present law imposes the tax on the entire gross estate which at the time of death is situated within the United States. This includes the following property (IRC sec. 2104):

(a) All tangibles physically located here; except certain works of art on loan for exhibition;

(b) Those intangibles the written evidence of which is treated as the property itself (such as bonds) if physically located here;

(c) Shares of stock of U.S. corporations, regardless of location;

(d) Moneys on deposit with banks (but only if the decedent was engaged in business in the United States); and

(e) Other intangibles (except insurance on decedent's life) if issued by or enforceable against a resident of the United States, a domestic corporation, or governmental unit.

Section 8 of H.R. 5916 would amend these rules as follows:

(a) All debt obligations, no matter where the evidence thereof is physically located, would be taxable if issued by or enforceable against U.S. citizens, residents, or entities. Other debt obligations continue to be taxable if evidence thereof is physically located here; and

(b) Deposits with Federal and State savings and loan associations by decedents who are not engaged in business here are excluded from the tax base.

It is submitted that these proposed amendments are far too restrictive. Instead of narrowing the tax base, the amendment would subject to tax many debt obligations which are presently not includable in the gross estate.

In order to attract foreign investment, it would appear desirable to exclude from the taxable gross estate of nonresident aliens, regardless of whether engaged in trade or business here or not, all debt obligations and shares of stock of noncontrolled corporations.

Precautionary measures should, however, be taken to reduce tax avoidance through the use of corporations to hold otherwise taxable property. At present tax avoidance by nonresident alien estates is