

Another questionable change is the provision that the interest on deposits with foreign banking branches of U.S. corporations will be viewed as income from sources without the United States provided the deposit is in a foreign currency. After 1970 this provision will tend to force the deposit of the vast amounts of "Eurodollars" to be deposited with foreign banks in order to avoid U.S. taxation of the interest income.

*Bill section 3: Proposed code section 871(a)*

(2) *Subject of the tax on non-resident alien individuals* (p. 13, line 15; p. 14, line 4).—In proposed section 871(a), the words "gross income" should replace the words "amount received." In regulations section 1.871-7(b)(1) there is the following clarification: "For the purposes of section 871(a)(1) 'amount received' means 'gross income.'"

*Bill section 3: Proposed code section 871(a)*

(3) *Page 13, lines 17-19.*—This proposed subsection describes the kinds of income *not* connected with a U.S. business which shall be subject to tax at the rate of 30 percent. It repeats the enumeration of the types of income presently described in section 871(a)(1), including the words "salaries," "wages," "compensations," "remunerations," and "emoluments." Under proposed section 864(b) the performance of personal services within the United States will constitute engaging in a trade or business within the United States except under certain limited circumstances. Remunerations for such personal services, therefore, would be taxed at graduated rates under proposed section 871(b) as income effectively connected with the conduct of a trade or business within the United States. Accordingly, proposed section 871(a) should be revised to exclude the terms cited above which are descriptive of payments for personal services.

*Bill section 3: Proposed code section 871(a)(2)*

(4) *Conforming the phraseology applicable to gains and losses* (p. 14, lines 15 and 16).—The phrase used in lines 15 and 16, page 14, in reference to the word "losses" is: "allocable to sources within the United States." It would seem preferable to continue to use the phrase "derived from sources within the United States" as it is used in line 13 with reference to the word "gains."

*Bill section 3: Proposed code section 871(a)(2)*

(5) *Determination of capital gains of aliens present in the United States 183 days or more.*—It is assumed that the intent of the bill is to subject nonresident aliens who are present in the United States for 183 days or more during a year to a 30-percent rate of tax. This provision places such an alien in a disadvantageous position in comparison with a domestic investor, because under the provisions of lines 22-24, page 14, and lines 1-2, page 15, the alternative tax and capital loss carryover provisions are not to be allowed. This seems contrary to the intent of the bill. We recommend that the rate of tax be 25 percent and that consideration be given to allowing the deduction of capital loss carryovers.

*Bill section 3: Proposed code sections 871(b) and 882*

(6) *Income "effectively connected" with a U.S. trade or business* (p. 15, lines 14-20, and p. 32, lines 8-14).—It is proposed that non-