Section 4(b). Tax on income connected with U.S. business

It is recommended that the title to proposed section 882 be changed by adding at the beginning thereof the words "Tax on." It is recommended that subsection (a) of proposed section 882 be changed to read as follows:

"(a) Imposition of tax—A foreign corporation engaged in trade or business within the United States during the taxable year (or during any preceding taxable year beginning after December 31, 1965) shall be taxable as provided in section 11 or 1201(a) on its taxable income determined on the basis of its gross income as described in subsection (b)(2)."

The caption, "Imposition of Tax," would be consistent with the caption to proposed section 881(a) and the intended limitation of taxable income can be accomplished without a separate paragraph.

Proposed section 882(c)(1)(A), in providing for allowance of deductions and credits in respect of U.S. business income, limits the deductions to circumstances in which they are "effectively connected with the conduct of a trade or business within the United States." For reasons already given in respect of the similar provision affecting nonresident alien individuals in section 3 of the bill, it is recommended that the proposed section 882(c)(1)(A) be changed by inserting "attributable to income" immediately preceding the phrase quoted in the preceding sentence.

Proposed section 882(d)(1)(A) permits a foreign corporation to treat gains described in present code section 631 (b) or (c) as income connected with a U.S. business. For reasons stated in the discussion of section 3, in respect of the similar election granted to nonresident aliens, it is believed that this election in respect of section 631 (b) or (c) income is not desirable.

Proposed section 882(e) would seem to prohibit a direct filing of a return by a foreign corporation in the circumstances there described. It is recommended that, in order to assure that the foreign corporation may itself file the return, the words "unless such return is made by such foreign corporation" be added at the end of the sentence.

The withholding rules are amended to eliminate withholding on any item of income (other than compensation for personal services) which is effectively connected with the conduct of a trade or business in the United States. As stated in respect of section 3 of the bill it is believed that withholding should continue to be governed by the source of income rules.

Section 4(b)(3) of the bill, containing proposed changes in the table of sections for subpart B of part II of subchapter N of chapter 1, should be changed to reflect the above-recommended changes in the titles to sections 881 and 882. Thus, the words "Tax on" should be inserted at the beginning of the titles given for sections 881 and 882.

Section 4(d). Dividends received from certain foreign corporations

It is recommended that the amendment of section 245(a) of the code, as proposed in section 4(d)(1) of the bill, be changed by adding "total" before "gross income." Compare present code section 542(c)(7)(A). The addition of "total" would seem to negate any argument that the various statutory exclusions applicable to gross income