

*Expatriation*

Sections 3(e), 8(f), and 9(a) contain alternative provisions designed to penalize for income, estate, and gift tax purposes certain persons who surrender their U.S. citizenship for the purpose of reducing their U.S. taxes. The Task Force on Promoting Increased Foreign Investments did not recommend such penalties and it may be questioned whether, on the one hand, the position of nonresident aliens is so greatly improved by the bill that U.S. citizens not otherwise prompted to expatriate themselves for tax reasons will now be induced to do so or, on the other hand, whether the penalties themselves are severe enough to prevent significant tax advantage from being gained for such surrender—as to justify adding these complexities and uncertainties to an already overburdened code. How, for example, can the Commissioner, with any semblance of uniformity of treatment, proceed to establish that “it is reasonable to believe” that an expatriate would have gained, but for proposed section 877, a “substantial” reduction of taxes on “probable income” for the year? In the case of estate tax on expatriates, would the “substantial” reduction in taxes be computed by reference to assets owned at expatriation or those owned at death, possibly 10 years later? Enforcement of such a provision can hardly be uniform; and lack of uniformity is further suggested in the exception provided for cases of dual citizenship. Moreover, it seems questionable whether, from a national policy standpoint, the United States should undertake such measures against persons willing to surrender their citizenship.

*Section 3(e). Expatriation to avoid tax*

It is recommended that the title of proposed section 877 be changed to “Tax on Certain Expatriates.” Compare titles of other sections in part II of subchapter N of chapter 1, particularly sections 871, 881, and 882.

The clause starting with “if the tax” in the last two lines of subsection (a) of section 877 should be changed to read as follows: “if the tax for the taxable year computed pursuant to such subsection exceeds the tax for the taxable year computed without regard to this section.”

In making computations to determine the applicability of an alternative tax it would not seem appropriate to speak of a “tax imposed.” See, e.g., section 1341(a) of the code.

In the second line of subsection (c)(1) of proposed section 877, “debt obligations” (in the title and text) should be changed to “evidences of indebtedness,” in order to conform to the terminology used in other areas of the code, e.g., sections 164 and 1232.

*Section 8(f). Special methods of computing estate tax*

It is recommended that the title of section 2107 be changed to “Tax on Estates of Certain Expatriates.”

*Section 9(b). Gift tax transfers*

In subsection (b)(2) of section 2511 “debt obligations” should be changed to read “evidences of indebtedness”.