

NORTH MASSAPEQUA, LONG ISLAND, N.Y.,
February 21, 1966.

Hon. WILBUR D. MILLS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MILLS: Your committee now has H.R. 11297 under consideration. Originally a tax bill was recommended by the Fowler committee to reform U.S. taxation in order to stimulate foreign investment in the United States. In its present form, H.R. 11297 would reduce U.S. exports by taxing foreign purchasing entities in the United States, make it more difficult for U.S. firms to earn income on their direct foreign investments, tend to reduce foreign investment in the United States, and in general, worsen the U.S. balance-of-payments problem.

H.R. 11297 introduces a radical concept of nexus in attributing and taxing the global income of a foreign corporation "effectively connected with" the conduct of a trade or business in the United States. The traditional source-of-income rules would give way to nebulous and vague guidelines such as whether the business activities in the U.S. are a "material factor" in generating any income of the foreign corporation. Thus, a stigma would be placed on foreign subsidiaries owned by a U.S. corporation which has an international division to provide certain managerial services. Under current law, and current practice, the U.S. corporation would charge its subsidiaries for this service or face a reallocation under section 482 of the Internal Revenue Code. This new bill would in fact attempt to attribute "income" of the foreign subsidiary to the United States, which subsidiary in fact conducts no real business in the United States, merely due to the general "overseeing function" of the U.S. parent who is interested in its foreign investment. These same nebulous guidelines could also encompass income of a foreign corporation who purchases in the United States for resale abroad. Under current rules the sales destination is the primary source of income. It is difficult to understand how the United States could tax a foreign corporation which merely purchases goods in this country and it is even more difficult to understand how such a bill would help our balance of payments by discouraging foreign purchasers.

It is our opinion that this new doctrine will contravene the traditional rules of "permanent establishment" in U.S. double-tax treaties and impose almost insurmountable problems in international tax planning.

If the stated purpose of the bill, "to modernize the present U.S. tax treatment of foreigners and to encourage foreign investment in the United States" is to be accomplished, its application should be limited to corporations which are majority owned by foreigners.

We respectfully urge that hearings on this bill be held by the House Ways and Means Committee so that the business community can comment on the inequity of its provisions.

Thank you for your consideration.

CHARLES GREENBERG.