

H.R. 11297 would amend the code by deleting section 819(a) and in its place would provide a new tax procedure for such companies involving a new nomenclature for defining taxable income.

Under section 842 of the new bill, a qualifying foreign life insurance company would be taxed on "income effectively connected with the conduct of any trade or business within the United States" at regular corporate tax rates. In addition, under new section 881, income, as there defined, from sources within the United States not effectively connected would be taxed at the 30 percent statutory withholding rate or lower treaty rates. Under the new procedure, the taxable income of such companies is to be classified under one or other of the foregoing categories of income, and it therefore becomes essential that there should be clear guidelines for such classification of taxable income.

Evidently, new section 842 replaces existing section 819(a). Therefore, based on the intent indicated in paragraph 22 of the committee print, we conclude that the expression "income effectively connected, etc." in new section 842 has the same connotation as "United States business" in section 819(a) in relation to a qualifying foreign life insurance company doing business in the United States.

It has been recognized that the authoritative source of information respecting the U.S. business of a foreign life insurance company is the annual statement of its U.S. business which such company is required to prepare on the form prescribed by the National Association of Insurance Commissioners. This statement includes, among other relevant data, the income, disbursements, reserves, etc., in respect to policies issued to persons resident in the United States at the time of issue, even though some of these policyholders may subsequently become residents outside the United States. It also includes, under the heading of "Assets," in addition to policy assets, the statutory deposits and trustee assets required to match U.S. policy liabilities. The investment income from all such assets is, of course, also reported in the statement.

Because of the need for classification of taxable income under the proposed new tax procedure, we urge that either the law or the regulations should expressly provide that income effectively connected with the conduct of any trade or business within the United States, in the case of a foreign life insurance company, will be basically that reported in the annual statement of the U.S. business of such company on the NAIC form.

The need for a special provision of this kind for our companies, beyond the definition in new section 864(c), arises on two counts in particular—

(a) Foreign life insurance companies seem to be the only foreign corporations of any kind whose taxable income is subject to a special adjustment, as under existing 819(b), and for this reason the definition of our effectively connected income should not necessarily follow the usual rules;

(b) Our companies, along with life insurance companies generally, are to be distinguished from most other types of corporations in regard to their major function as investors in securities of substantial funds. Because of this, our companies have income from extensive investments in the United States. The