

the withholding requirements of section 1442 where, in his judgment, circumstances warranted it.

A similar situation exists with respect to U.S. life insurance companies subject to withholding tax in Canada. Under the authority of section 109(4) of the Canadian Income Tax Act, regulations (800-804) were made in 1953 whereby the withholding provisions were made inapplicable in the case of such companies and requiring them to file an annual return and make an annual settlement of the tax.

Annual settlement in this way of the tax payable under new section 881 would, we feel, also provide a simple and convenient means for making any adjustments found necessary by reason of any overlap, due to the operation of the minimum surplus requirement of section 819(a), of tax payable under new section 842.

(c) *Adjustment of proposed section 881 tax for any overlapping due to the operation of the minimum surplus provision of section 819*

Overlapping of tax may occur when tax payable under new section 842 involves an adjustment by reason of the operation of the minimum surplus requirement of section 819, in the case of a company subject to tax on income not effectively connected under proposed section 881. To avoid double taxation where any such overlapping occurs, we suggest that provision be made for an adjustment in taxes payable under proposed section 881.

For the purposes of such an adjustment, provision might be made for reducing the tax payable under proposed section 881, in the ratio which the amount of the adjustment resulting from the operation of the minimum surplus provision of section 819 bears to the amount of income, including any tax exempt income, as defined in proposed section 881 provided that the said ratio should never exceed unity and provided further that the reduction in tax should not exceed the additional tax payable under section 842, by reason of the operation of the section 819 adjustment.

In the previous paragraph, the first proviso would insure that the reduction in tax would never exceed the tax payable under new section 881, and the second proviso would preclude any reduction in tax in excess of the additional tax incurred under new section 842 by reason of the operation of the minimum surplus provision of section 819.

THE MANUFACTURERS LIFE INSURANCE Co.,
Toronto, Canada, January 27, 1966.

Re H.R. 11297, Foreign Investors Tax Act of 1965.

Dr. LAURENCE N. WOODWORTH,
*Chief of Staff, Joint Committee on Internal Revenue Taxation,
Washington, D.C.*

DEAR DR. WOODWORTH: With my letter of January 19, I sent you a memorandum dealing with some provisions of this bill which present special problems for Canadian life insurance companies doing business in the United States.

As a supplement to that memorandum, we have prepared draft revisions of a few sections of the bill which would give effect to the suggestions made in the memorandum. This draft has been prepared in the hope that it may be of some assistance to you if the bill is to be revised for this purpose.