

ing sentence. Cf. Section 8(f) of the bill from which it is recommended that references to subtitle A be deleted.

Section 10 of the bill provides that no amendment made thereby shall supersede an existing treaty. Accordingly, an expatriate to a treaty country would presumably still enjoy the benefits thereof (e.g., limitation of tax on dividends to 15 percent, on interest to 5 percent, etc.). Although it is true that, to some extent, our treaties provide these benefits only to countries in which the domestic rates are themselves high, thus discouraging expatriation to them, this subcommittee is of the view that once the policy to tax expatriates is adopted (as to which this subcommittee expresses no view), section 10 of the bill should be amended to provide that the new proposed section 877 override existing treaties (Cf. sec. 31 of the 1962 R.A.).

The proposed new treatment of capital gains realized by an expatriate applies even to gains on assets acquired after expatriation. This appears an undue extension of the proposal, and it is suggested that the Secretary or his delegate be empowered to alleviate the effect of the proposed amendment in cases where the property on which the gains are realized was afteracquired. Per contra, the new proposal probably does not reach gains on installment sales made during the 5-year period, but includible in income thereafter. Consideration should be given as to whether this situation should be covered.

The proposed section provides that if an expatriate's "taxes on his probable income" are shown to be substantially reduced, the burden of proving that the expatriation did not have as one of its principal purposes the avoidance of U.S. taxes shall be on the taxpayer. It is not clear whether the "taxes on his probable income" means only the U.S. taxes thereon or the entire tax burden thereon including the taxes of the country of his expatriation. This should be clarified. Cf. section 963.

It seems clear that nothing in the proposed amendment changes the status of the expatriate as a nonresident alien for definitional purposes under the Internal Revenue Code. For example, the expatriate should not be deemed to be a "United States citizen or resident" under section 552(a)(2). It is recommended, however, that this be made absolutely clear by appropriate committee report or otherwise in the course of enactment.

*Bill section 4(b)(1) : IRC section 882(c)(2)—Necessity to file return*

This section permits deductions allowed "in this subtitle" to a foreign corporation only if it files a true and accurate return of its total income from U.S. sources. It is noted that the section, as under present law, applies to foreign corporations that are personal holding companies and, because of the broad language, "in this subtitle," operates to disallow dividends-paid deductions unless a return is filed.

It is recommended that the section be revised so as to allow specifically the dividends-paid deduction for personal holding company tax purposes whether or not a return has been filed and that the change be made retroactive to 1954. In practice, foreign corporations that are owned, essentially, by nonresident aliens and which believe that their liability has been fully met by withholding at the source, may fail to file U.S. income tax returns. In a number of instances, such corporations may make dividend distributions to nonresident alien