

ment in this country, the radical new "effectively connected" theory should not be applicable to U.S. owned and controlled corporations.

As far as U.S. controlled corporations are concerned, this could be accomplished by substituting for the presently proposed new IRC section 882(b) the following:

SEC. 882. INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.

* * * * *

(b) GROSS INCOME.—

1. In the case of a foreign corporation 50 percent or more of the stock of which is owned, directly or indirectly, by United States persons (as defined in section 957(d)), gross income includes only gross income from sources within the United States and,

2. In the case of all other foreign corporations, gross income also shall include gross income from sources without the United States which is effectively connected with the conduct of a trade or business within the United States.

We express no opinion as to the effect of this provision upon foreign investor-owned foreign corporations, other than to state that it would take away from them no benefits which they would be able to obtain under the present provisions of H.R. 13103.

Another, simpler method to accomplish exactly the same purpose, with fewer changes in wording of cross-references, would be to reword the proposed new section 864(c)(4)(C) (page 16 of the bill as introduced) as follows:

(C) No income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it is derived by a foreign corporation, more than 50 percent owned, directly or indirectly, by U.S. persons.

5. Proposed disallowance of credit for uncertain foreign income taxes: H.R. 13103 would disallow credit (or deduction) for uncertain foreign income taxes imposed on a foreign corporation if—

(1) Such taxes were imposed by reason of its place of organization or domicile, or

(2) Such taxes were incurred as a result of steps taken for tax-saving reasons.

It would seem that a mere statement of these tests would be sufficient to condemn them.

The first test would penalize the payment of foreign taxes imposed by a foreign government on the same basis as the United States has always claimed jurisdiction to tax corporations in this country.

The second test is purely subjective and would subject a foreign corporation to double taxation on the basis of what it might otherwise have done, rather what it did.

Others will present to this committee more specific comments and recommendations regarding this proposed provision, which would be in addition to all existing restrictions and limitations on the amount allowable as a foreign tax credit.

Our question is this: In what way would this provision for the disallowance of credit for uncertain foreign income taxes, operate as an incentive for foreign investment in the United States?

6. Desirability of simplification of language and concepts: Doubt as to attractiveness to foreign investors of proposed income tax provisions: We believe that the stated objectives of this bill could be attained more satisfactorily by the use of much simpler language and well-recognized principles.