RECOMMENDATIONS

1. As to estate taxation of nonresident aliens, it is recommended that the initial suggestion of the Fowler task force with regard to elimination of U.S. estate taxes on intangible personal property of nonresident alien decedents be followed.

2. It is recommended that interest paid on deposits in foreign branches of U.S. banks be treated as foreign source income. This treatment is proposed in H.R. 11297 for foreign currency deposits; it should be extended to include dollar deposits.

3. As to income taxation of interest paid on bank deposits in the United States to nonresident aliens and foreign corporations not doing business in the United States, it is recommended that the treatment proposed in H.R. 11297 for the period 1966 through 1970, which in effect continues the present exemption which has existed since 1921, be continued after 1970.

4. As to the taxation of nonresident aliens and foreign corporations engaged in trade or business in the United States, it is recommended that such persons be taxed only on their U.S. source income. It is further recommended that the term "effectively connected" be defined so as to eliminate the problems discussed above.

5. Because of the importance of the above described changes in the U.S. tax law proposed by H.R. 11297, it is urged that hearings be held by the Ways and Means Committee to consider the full implications of the proposals.

STATEMENT OF NEW YORK COUNTY LAWYERS ASSOCIATION, SPECIAL SUBCOMMITTEE OF THE COMMITTEE ON TAXATION, JAY O. KRAMER; WALLACE S. JONES; AND CARTER T. LOUTHAN, CHAIRMAN

REPORT OF H.R. 13103, THE FOREIGN INVESTORS TAX ACT OF 1966

(Due to the shortness of available time this report was not considered by the committee on taxation)

Summary of Report on H.R. 13103

H.R. 13103 removes our prior objections to the estate tax treatment of bank accounts and the income and estate tax treatment of dollar deposits with foreign branches of U.S. banks.

H.R. 13103 does not meet our objections to the estate tax treatment of bonds issued by U.S. persons. The situs rules for estate and gift tax purposes should be consistent.

The provisions of H.R. 13103 with respect to income effectively connected with the conduct of a business in the United States by a nonresident alien are preferable to those of H.R. 11297, but do not meet our objection that the tests are so vague that the resultant uncertainty will discourage foreign investments in the United States. It is arbitrary and unfair to require that all income from sources within the United States, other than that subject to tax at the flat rate, be deemed to be effectively connected with the conduct of a business in the United States.

A technical amendment is necessary in section 2(d) of H.R. 13103, relating to the exclusion of dividends and interest from foreign subsidiaries from income effectively connected wih the conduct of a business in the United States.

1. Bank accounts and bonds

The present estate tax law provides that deposits with persons engaged in the banking business are not includible in the taxable gross estate of a nonresident alien not engaged in business in the United States. Under present law, bonds issued by U.S. persons are includible in the taxable gross estate of nonresident aliens only if the bond itself is physically located in the United States on the taxable date.

Section 8 of H.R. 11297 would have repealed this estate tax exemption as to deposits and would have provided that bonds issued by U.S. persons should be includible in the taxable estate of nonresident alien decedents even though not physically located in the United States on the taxable date.

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