

within the United States. The remainder of the U.S. source income of this type of a corporation is to be taxed in the same manner as income of other foreign corporations which is not effectively connected to a U.S. trade or business; that is, at a flat 30 percent (or lower treaty) rate. The determination of whether a foreign insurance company qualifies for the special domestic insurance treatment is to be made by considering only the income of the corporation which is effectively connected with the conduct of its insurance business carried on in the United States. In making this change your committee intends no inferences as to the requirements of existing law with respect to investment income of foreign insurance companies.

For purposes of determining whether or not income of a foreign life insurance company is effectively connected with the conduct of its U.S. life insurance business, the annual statement of its U.S. business on the form approved by the National Association of Insurance Commissioners will usually be followed. It is noted that all the income effectively connected with the foreign life insurance company's U.S. life insurance business, from whatever source derived, comes within the ambit of this provision. This is a continuation of present law which subjects to U.S. tax all the income attributable to the U.S. life insurance business from whatever source derived.

In the case of insurance companies other than life—both mutual and stock—present law provides that if these companies have income from U.S. sources but are not engaged in an insurance business here, they are taxed in the same manner as other foreign corporations. Where mutual insurance companies (other than life or marine) are carrying on an insurance company business in the United States, they are taxable on their income derived from sources within the United States in the same manner as similar domestic mutual companies. Stock casualty, fire, flood, and so forth, insurance companies carrying on an insurance business in the United States, also are taxed in the same manner as domestic stock insurance companies with respect to the portion of their taxable income from sources within the United States.

It has been pointed out to your committee that the special rule in present law referred to above with respect to foreign life insurance companies—where these companies hold a lower ratio of surplus for their U.S. business than that held by the average domestic companies—may lead to what in effect is a double tax. This results from the interaction of this provision with the effectively connected rule. Thus for example, a company may find its deductions reduced (because of the minimum surplus requirement) while, at the same time, it is taxed at a flat 30 percent (or lower treaty rate) on investment income in this country not effectively connected with the U.S. business which, in effect, also includes the income subject to the minimum surplus adjustment.

To meet the problem referred to above, your committee has added a paragraph to the provision described above which has the effect of reducing the income subject to the flat 30-percent tax (or lower treaty rate) by the amount by which the deductions under this special provision are reduced as the result of the application of the Secretary's ratio. This is accomplished by allowing a credit against the 30-