made for any year, at any time, so long as the year is still open. However, these elections are binding—if the election is exercised for any post-1967 year the treatment provided by this provision applies not only to the year of election but also to all years subsequent which are open and, if made for pre-1967 years, this provision applies for all open years prior to that date. It should be noted that either election can be made separately.

Generally, the election must be made by both spouses. However, with respect to the pre-1967 election, the foreigner spouse need not join if the Secretary of the Treasury determines that (1) an election would not affect the U.S. tax liability of the foreign spouse for any taxable year, or (2) that the foreign spouse's U.S. tax liability for pre-1967 years cannot be ascertained and that to deny the election to the U.S. citizen would be inequitable and cause undue hardship. If either election is made, a period of 1 year is provided with respect to all open years for the making of assessments and the claiming of refunds. However, this 1-year period applies only if the deficiency or refund is attributable to the election. Also, no interest is due on a deficiency or refund resulting from the election for any period up to 1 year after the filing of the election.

4. Foreign tax credit (sec. 6(a) of the bill and secs. 874, 901, and new sec. 906 of the code)

(*a*) *Present law.*—Present law allows a credit against U.S. income tax for foreign income, war profits, and excess profits taxes. However, this credit it denied to nonresident aliens and foreign corporations since under present law they are only taxable on their income from U.S. sources. This is consistent with the generally accepted concept that the country of the source has precedence in the taxing of income and that it should be the country of residence or citizenship which allows the credit to prevent double taxation.

(*b*) *Reasons for provision.*—As a result of the rule provided elsewhere in this bill nonresident aliens and foreign corporations, in certain types of cases, are taxable on foreign source income which is effectively connected with the conduct of a trade or business within the United States (see item B–2 above). In these cases the country of the source of the income may also impose a tax on this same income. Consistent with the general rule that taxes imposed by the country of source take precedence, your committee's bill provides that in any of these cases where the United States is taxing foreign source income of a nonresident alien or a foreign corporation, a foreign tax credit is to be available with respect to any income, war profits, and excess profits taxes also imposed on this same income by the country in which the income was earned.

(*c*) *Explanation of provision.*—For the reasons indicated above the bill adds a new section to the code (sec. 906) to allow a foreign tax credit to nonresident aliens and foreign corporations with respect to foreign source income which is subject to tax in the United States because it is effectively connected with the conduct of a trade or business in the United States. However, this foreign tax credit for nonresident aliens and foreign corporations is not to be available for taxes imposed by a country solely on the basis that it has jurisdiction to tax the individual on his or its worldwide income because he is a citizen or resi-