

his gross estate, the expatriate is treated as owning the stock of a foreign corporation (at the time of his death) which he transferred during his life but which under U.S. estate tax law generally is not effective in excluding property from a gross estate. There transfers are:

- (i) Transfers in contemplation of death (sec. 2035).
- (ii) Transfers with retained life estate (sec. 2036).
- (iii) Transfers taking effect at death (sec. 2037).
- (iv) Revocable transfers (see 2038).

In computing the estate tax under this new provision the expatriate's estate is allowed the credit for State death taxes, the credit for gift tax, and the credit for tax on prior transfers.

The new section excepts from its application certain expatriates whose loss of U.S. citizenship occurs under circumstances which would make the application of the special taxing provisions inappropriate. These are the same exceptions provided with respect to the income tax expatriation provision (see No. C-3 above).

The new provision, like the comparable income tax provision, contains a special rule dealing with the burden of proving the existence or nonexistence of U.S. tax avoidance as one of the principal purposes of the expatriation. Under this provision, the Secretary of the Treasury or his delegate must establish that it is reasonable to believe that the expatriate's loss of U.S. citizenship would (but for the application of this new provision) result in a substantial reduction in the estate, inheritance, legacy, and succession taxes.

If this is established, then the administrator of the expatriate's estate must carry the burden of proving that the loss of citizenship did not have as one of its principal purposes the avoidance of U.S. income, estate, and gift taxes.

(d) *Effective date.*—This new provision is effective with respect to estates of decedents dying after the date of enactment of this bill. It does not, in any event, apply, however, to expatriates who lost their citizenship before March 8, 1965.

*7. Application of pre-1967 estate tax provisions (sec. 8(f) of the bill and new sec. 2108 of the code)*

The unilateral reduction of estate tax rates applicable to nonresident aliens by statute may have the effect of making it more difficult to negotiate estate tax treaties. This is comparable to the similar problem arising from the revision of the income tax provisions applicable to nonresident aliens. As in the case of the income tax provisions therefore, your committee has added a new provision which gives authority to the President to apply certain provisions of the estate tax law relating to estates of nonresidents not citizens, without regard to the amendments made to these provisions by this, or any subsequent, act in the case of estates of residents of any country which imposes more burdensome estate taxes with respect to estates of U.S. citizen decedents, not residents of that country, than does the United States on estates of residents of such a country, not citizens of the United States.

The new provision gives special authority to the President where he finds that:

- (a) Under the laws of a foreign country a more burdensome tax is imposed on the estates of U.S. citizens, not residents of the