

CODE SECTION 873. DEDUCTIONS

(a) *General rule.*—Section 873(a) of the code, as amended by section 3(c) of the bill, provides that, generally, a nonresident alien individual is allowed the deductions allowable under subtitle A of the code, but only if and to the extent that such deductions are connected with income which is effectively connected with the conduct of a trade or business within the United States. The deductions so allowed may be taken only by a nonresident alien individual who is determining his tax in accordance with amended section 871(b) by reason of having gross income which is effectively connected with the conduct of a trade or business within the United States or gross income which is treated as effectively connected with the conduct of a trade or business within the United States by virtue of an election made pursuant to section 871(d), as added by section 3(a) of the bill. No deductions are to be allowed in determining the tax imposed by amended section 871(a).

Under subsection (a) of section 873 the rules governing the proper apportionment and allocation of deductions for purposes of the application of such subsection are to be prescribed in regulations issued by the Secretary of the Treasury or his delegate.

(b) *Exceptions.*—Section 873(b) provides that, for purposes of determining the tax in accordance with amended section 871(b), a nonresident alien individual who has income which is effectively connected with the conduct of a trade or business within the United States (or income which is so treated pursuant to an election under amended sec. 871(d)) is allowed certain deductions in determining his taxable income, whether or not such deductions are connected with income which is effectively connected with the conduct of a trade or business within the United States. The deductions so allowed under amended section 873(b) are: (1) The deduction for casualty or theft losses of property located within the United States allowed under section 165(c)(3) of the code; (2) the deduction for charitable contributions and gifts allowed under section 170 of the code, including contributions or gifts to or for a trust described in section 170(c)(2); and (3) the deduction for personal exemptions allowed by section 151 of the code (in the case of a nonresident alien individual who is not a resident of Canada or Mexico, only one such exemption is allowable).

For purposes of determining the application of the limitations contained in section 170(b) of the code on the amount of the deduction for charitable contributions or gifts, only that income for the taxable year which is effectively connected with the conduct of a trade or business within the United States, plus any income from real property which pursuant to an election under amended section 871(d) is treated as income so effectively connected, is to be taken into account.

If in the case of a nonresident alien individual whose tax for the taxable year is determined in accordance with amended section 871(b) the deductions allowed by section 873 exceed the gross income which is effectively connected with the conduct of a trade or business within the United States (and any income which is treated pursuant to an election under amended sec. 871(d) as income so effectively connected), such excess, to the extent constituting a net operating loss under section 172(c) of the code, may be carried, in accordance with