

CODE SECTION 881. INCOME OF FOREIGN CORPORATIONS NOT CONNECTED WITH UNITED STATES BUSINESS

(a) *Imposition of tax.*—Subsection (a) of section 881 of the code, as amended by section 4(a) of the bill, imposes a tax of 30 percent on substantially the same income from sources within the United States as that which is taxed at 30 percent under existing section 881(a), but the tax under amended section 881(a) is imposed only to the extent the income is not effectively connected with the conduct of a trade or business within the United States. Subsection (a) of amended section 881 applies to the items of income enumerated therein whether or not the corporation is engaged in trade or business in the United States during the taxable year for which the tax is being determined; but, if the corporation is not so engaged, under section 864(c)(1)(B), as added by section 2(d) of the bill, none of its income shall be treated as effectively connected with the conduct of a trade or business within the United States even though such income is attributable to a trade or business carried on in the United States by the recipient in a previous taxable year. Thus, in the case of a foreign corporation not engaged in trade or business at any time during the taxable year, a 30-percent tax is imposed by amended section 881(a) upon the items of income enumerated therein which are received from sources within the United States; no other tax is imposed for the taxable year.

Paragraphs (1), (2), and (3) of section 881(a) specify the income to which section 881(a) applies. The items of income described in paragraph (1) are also described in existing section 881(a), but the parenthetical expression containing a reference to interest on bank deposits has been eliminated. Paragraph (2) includes gains described in section 631(b) and (c), but section 1231 is not taken into account in determining the amount subject to tax. Paragraph (3) describes two items of income which are also subject to the 30-percent tax but which are not described in existing section 881(a). They are amounts which under section 341 of the code, or which under section 1232 of the code (in the case of bonds or other evidences of indebtedness issued after September 28, 1965), are treated as gains from the sale or exchange of property which is not a capital asset. None of the amounts described in paragraphs (1), (2), and (3) are subject to the 30-percent tax unless they are from sources within the United States. Gains from the sale or exchange of a capital asset (other than amounts to which amended sec. 881(a) (2) and (3) applies) are subject to tax only if they are received by a foreign corporation which is engaged in trade or business within the United States at some time during the taxable year for which the tax is being determined and are effectively connected with the conduct of a trade or business within the United States.

(b) *Doubling of tax.*—Subsection (b) of section 881 contains a cross reference to section 891 of the code (relating to doubling of tax on corporations of certain foreign countries).

SECTION 4 OF BILL—CONTINUED

(b) *Tax on income connected with United States business.*—Paragraph (1) of section 4(b) of the bill amends section 882 of the code (relating to tax on resident foreign corporations), and paragraphs