

(d) *Effective date.*—Subsection (d) of section 5 of the bill provides that the amendments made by section 5 of the bill apply to taxable years beginning after December 31, 1966.

(e) *Elections by nonresident United States citizens who are subject to foreign community property laws.*—Paragraph (1) of section 5(e) of the bill adds a new section 981 (designated as new subpart H) to part III of subchapter N of chapter 1 of the code (relating to income from sources without the United States).

CODE SECTION 981. ELECTION AS TO TREATMENT OF INCOME SUBJECT TO
FOREIGN COMMUNITY PROPERTY LAWS

(a) *General rule.*—Subsection (a) of new section 981 provides that for any taxable year beginning after December 31, 1966, an individual who is (1) a citizen of the United States, (2) a bona fide resident of a foreign country or countries during the entire taxable year, and (3) married at the close of the taxable year to an individual who is a nonresident alien during the entire taxable year, may, together with such spouse, elect for such year to have subsection (b) apply to their income for any taxable year in which there is community income under the community property laws of a foreign country. If an election to have subsection (b) apply for a taxable year has been made, the election is to apply for all open taxable years (as defined in subsection (e) (2)) for which the requirements of subsection (a) (1) are met, unless the Secretary of the Treasury or his delegate consents to a termination of the election.

(b) *Treatment of community income.*—Subsection (b) of new section 981 contains rules for determining the attribution of the community income to the respective spouses for U.S. income tax purposes for taxable years beginning after December 31, 1966, to which the election made under subsection (a) applies. Community income for this purpose means community income as determined under the community property laws of the foreign country of jurisdiction.

Earned income

Paragraph (1) of subsection (b) provides that wages, salaries, or professional fees, and other amounts received as compensation for personal services actually performed which, under the foreign community property laws is treated as community income of the spouses, are to be treated as the income of the spouse who actually performed the personal services. This rule does not apply to community income derived by a spouse from a trade or business conducted by such spouse in which both personal services and capital are material income-producing factors, nor does it apply to a partner's distributive share of partnership income. Also this rule does not apply to any compensation which represents a distribution of earnings or profits of a corporation rather than a reasonable allowance for compensation for personal services actually performed.

Trade or business income and partnership income

Paragraph (2) of subsection (b) contains a rule for the attribution to the respective spouses of the community income derived from a trade or business and of community income which is a partner's distributive share of partnership income. The rule follows the princi-