

with respect to estates of decedents dying after the date of the enactment of the bill.

CODE SECTION 2107. EXPATRIATION TO AVOID TAX

(a) *Rate of tax.*—New section 2107 provides a special tax computation for the estates of decedent nonresidents not citizens of the United States, who lost U.S. citizenship after March 8, 1965, and within 10 years of death, and who had as a principal purpose for such loss the avoidance of U.S. income, estate, or gift tax. Subsection (a) of such section provides that the taxable estate of such a decedent shall be subject to tax at the rates set out in section 2001, which are the rates used in the case of estates of U.S. citizens or residents. For this purpose, the taxable estate is determined as provided in section 2106 in the same manner as that provided for in the case of any other decedent nonresident not a citizen of the United States, except that in determining such taxable estate the gross estate of such a decedent also includes, under subsection (b) of section 2107, a proportion of the fair market value of any stock owned by the decedent in a foreign corporation, if the corporation was controlled by the decedent and had assets situated in the United States.

(b) *Gross estate.*—Subsection (b) of section 2107 provides that as a general rule the gross estate of a decedent to whom subsection (a) of section 2107 applies is determined as provided in section 2103 with respect to the estate of any other decedent nonresident not a citizen of the United States. Subsection (b) also provides an exception to this general rule which is designed to prevent a decedent to whom subsection (a) of section 2107 applies from avoiding Federal estate tax by transferring to a foreign corporation under his control property which would otherwise be includible in his gross estate for Federal estate tax purposes if such property had not been transferred to such corporation. For purposes of the application of this exception, such a decedent is considered to have been in control of a foreign corporation at the time of his death if the tests set out in paragraphs (1) and (2) of subsection (b) are both met.

The test contained in paragraph (1) is that the decedent must have owned, at the time of his death, either directly or indirectly (within the meaning of sec. 958(a) of the code and the regulations thereunder) through certain foreign entities, at least 10 percent of the total combined voting power of all classes of stock entitled to vote of the foreign corporation.

The test contained in paragraph (2) is that the total of the stock which the decedent owned, either directly or indirectly as described in paragraph (1), and the stock which he was considered to have owned by applying any applicable constructive ownership rules of section 958(b), at the time of his death, must have constituted more than 50 percent of the total combined voting power of all classes of stock entitled to vote of the foreign corporation. For purposes of this subsection (b) the decedent is treated as owning stock of a foreign corporation at the time of his death if, at the time of a transfer (by trust or otherwise) within the meaning of section 2035, 2036, 2037, or 2038 of the code, he owned such stock. The same shares of stock may not be counted more than once in determining whether or not the 50-percent