nonresident not a citizen of the United States who was not engaged in business in the United States during the calendar year of the gift.

Paragraph (1) of new section 2501(a) provides that a tax, computed as provided in section 2502, shall be imposed on the transfer of property by gift by any individual, whether resident or nonresident.

Paragraph (2) contains an exception to paragraph (1) by providing that no gift tax shall be imposed on the transfer of intangible property by gift by any nonresident not a citizen of the United States. This exception applies whether or not the nonresident is engaged in business in the United States during the calendar year and even though the property is situated in the United States.

Paragraph (3) withdraws the exception contained in paragraph (2) in the case of gifts by an expatriate who lost U.S. citizenship (other than as a result of the application of sec. 301(b), 350, or 355 of the Immigration and Nationality Act) after March 8, 1965, and within the 10-year period ending with the date of transfer if such loss of U.S. citizenship had for one of its principal purposes the avoidance of U.S. income, estate, or gift tax. Accordingly, in the case of such an expatriate, the tax provided in section 2502 is imposed on the transfer of intangible property by gift (subject to the limitation with respect to situs contained in sec. 2511(a) of the code). The tax will be imposed in such case irrespective of whether the donor is engaged in business in the United States during the calendar year. Sections 301(b), 350, and 355 of the Immigration and Nationality Act are discussed in connection with section 877(d), as added by section 3(e) of the bill.

Paragraph (4) provides that, in determining whether a principal purpose for the loss of U.S. citizenship by an expatriate donor was the avoidance of U.S. income, estate, or gift tax, the Secretary of the Treasury or his delegate must first establish that it is reasonable to believe that the donor's loss of U.S. citizenship would, but for paragraph (3) of this subsection, result in a substantial reduction in his combined Federal and foreign gift taxes for the calendar year.

In the absence of complete factual information, the Secretary or his delegate may make a tentative determination, based on the information available, that the decedent's loss of U.S. citizenship would, but for paragraph (3) of this subsection, substantially reduce his combined Federal and foreign gift taxes for the calendar year. Such tentative determination shall be sufficient to establish that it is reasonable to so believe, in the absence of a showing by the donor of the actual reduction in such taxes resulting from his loss of U.S. citizenship.

Such tentative determination may be based upon the fact that the laws of the country of which the donor became a citizen and the laws of the country of which the donor is a resident would ordinarily result, in the case of gifts by a person of the donor's citizenship and residence, in liability for gift taxes substantially lower than the amount of tax imposed by chapter 12 of the code on gifts by citizens of the United States.

Once the Secretary or his delegate has established that it is reasonable to believe that the donor's loss of U.S. citizenship would, but for paragraph (3) of this subsection, result in a substantial reduction in his combined Federal and foreign gift taxes for the calendar year, such expatriate donor must show that avoidance of U.S. income, estate, or gift tax was not a principal purpose of his loss of citizenship.