

H.R. 13103 is a modified version of H.R. 5916, a bill introduced in March 1965, to carry out recommendations of the Treasury Department. H.R. 5916 was a part of the President's program to improve the United States balance of payments.

We believe that H.R. 13103, by providing more equitable tax treatment for foreign investors, will tend to enhance the attractiveness of investment in the United States and thereby have a favorable effect on our balance of payments. Accordingly, the Bureau of the Budget recommends enactment of the bill.

The proposed amendment to H.R. 13103 would give the President discretionary authority to impose or remove the interest equalization tax on dollar loans made by foreign branches of U.S. banks. We have no objection to this amendment.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., August 18, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning H.R. 13103, an act to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States.

The act as passed by the House would reduce U.S. tax upon the estates of nonresident aliens, thereby providing more equitable tax treatment in line with that applied to estates of U.S. citizens. The bill would also limit U.S. tax on nonresident aliens' investment income while taxing their trade and business income in the same manner that a U.S. citizen's trade and business income is taxed.

The estate tax applied to estates of aliens domiciled abroad would be reduced considerably by increasing the current \$2,000 exemption to \$30,000 and by reflecting the new alien estate tax rate schedule a marital deduction of 50 percent of the taxable estate, which deduction currently is not allowed. The present high estate tax on nonresident aliens discourages many of them from investing in the United States. This reduction will make the United States more attractive as a place to invest one's savings and should increase foreign investment here.

The act extends the income tax exemption presently given interest paid on bank deposits to nonresident aliens not engaged in trade or business in the United States to interest and dividends paid on share deposits by savings and loan associations and interest paid by insurance companies. However, beginning in 1972 all such payments would become subject to tax on U.S. source income.

The act would restructure the income tax treatment accorded nonresident aliens and foreign corporations so as to tax their investment income at the flat rate of 30 percent or the lower treaty rate, and to tax their income effectively connected with the carrying on of a U.S. trade or business at the regular income tax rates applied to resident individuals and domestic corporations. Currently nonresident aliens not engaged in trade or business in the United States are taxed at either the 30-percent rate or higher graduated rates, whichever produces more tax, except that if a rate has been fixed by treaty, that rate will apply. Nonresident aliens and foreign corporations engaged in trade or business are taxed at the graduated rates on the net amount of all their U.S. source income.

On the one hand this change would make investment in the United States more attractive to foreign investors not residents of tax treaty countries, since it limits the tax rate to 30 percent. Also, any foreign investor in the higher tax brackets engaged in trade or business here would benefit so far as his U.S. investment income is concerned since under present law this is taxed at the graduated rates regardless of whether a tax treaty is in effect.

On the other hand the change would close the loophole allowed to foreign corporations that in reality are not engaged in business in the United States, but through a minimal amount of activity qualify for the 85-percent dividend deduction accorded to foreign corporations engaged in business. This results in an effective tax rate of less than 7½ percent as opposed to a 15-percent treaty rate or 30-percent rate that would apply under this bill. At the same time, those