

does not state how widely this triple combination of circumstances has been found to exist.

The Council does not believe that the elimination of the alleged abuses is properly a matter for legislative action by the United States. The examples cited in the House Committee report could more appropriately be corrected by changes in the tax laws of other countries. Thus, the country of incorporation could adopt the long-standing U.S. practice of taxing locally-organized corporations on their world-wide income. Alternatively, the country in which the sale is made could logically impose a tax on the transaction. Finally, the country where the controlling shareholders reside could impose tax under provisions similar to subpart F enacted as a part of the U.S. Revenue Act of 1962. However, the failure of these countries to act does not furnish a sound reason for the United States to reach out and tax income more properly within the jurisdiction of other countries.

The fallacy of the "tax haven" purpose of the bill is indicated by the fact that its application would not be limited to cases in which income is escaping taxation by other countries. In fact, the question of whether some other country taxes the income would be given no effect in determining whether the new U.S. tax would apply.

The only cases in which income of the three specified types, treated as "attributable" to a United States office, would not be taxed under the bill are those in which goods are sold for use outside of the United States and there is also a foreign office participating materially in the sale. However, no exceptions whatever are recognized with respect to "effectively connected" income from licensing operations, dividends and interest, or income from sales of goods for use in the United States.

It is probable that in most cases the foreign source income which the bill subjects to United States tax will be taxed by the country of source of the income or the country of incorporation. The bill not only applies in these non-tax haven situations; it would not even give a foreign tax credit for a tax imposed by the country of incorporation unless it was also the source of the income and then not in all such cases.¹ Even when credit is given for a tax imposed by the country of source of the income, the bill may still have the effect of imposing a residual U.S. tax on foreign source income in a non-tax haven situation.

Even if the bill is enacted, the "tax haven" purpose will not be accomplished, since the U.S. offices whose activities will be considered to generate United States taxable income can be removed to genuine "tax haven" countries which would impose no income taxes. Thus the bill would accomplish neither elimination of international tax avoidance nor an

¹ Because of ill-chosen phraseology, the proposed statute may fail to allow a credit where the country imposing the foreign income tax is both the country of "source" and the country of domicile, unless a similar tax would have been imposed by that country if the corporation had been domiciled in another country.