

(By direction of the Chair, the following communications are made a part of the record at this point:)

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, D.C. August 9, 1966.

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

DEAR MR. CHAIRMAN: This letter is in response to your Committee's invitation to submit written statements on H.R. 13103, the Foreign Investors Tax Act of 1966. This legislation has been the subject of continued study by the NAM Subcommittee on International Taxation since the original version was first introduced.

Our concern with H.R. 13103 is focused largely on the "effectively connected income" test. On March 4, 1966, we told the House Committee on Ways and means, "* * * that unless this new concept is carefully drawn and applied, it invites a host of questions and uncertainties in the existing U.S. source rules." These "questions and uncertainties" still exist and indeed further study reaffirms our doubts.

The basic purpose of H.R. 13103, with which we have no quarrel, is to attract foreign investment capital to the U.S. The collateral purposes with which we also agree in principle are:

(a) To prevent the U.S. from being used as a tax haven by foreign corporations, and

(b) To impose a U.S. tax on income generated from U.S. business activities—otherwise not taxed—.

It is the implementing provisions to effect these latter purposes about which we have serious doubts. The "effectively connected income" test is a jurisdictional test which would be imposed on and would supplement our present source of income rules. It is subjective and fuzzy in its measurements and application. Taxes would turn on such concepts as: material participation in—activities attributed to—etc. Practical questions of proof are consequently raised. Further, materiality and taint would, in a number of instances lead to multiple taxation.

The present rules, while being jurisdictional themselves, are well understood both here and abroad. The proposed rules seriously lack the precision of the old, and were they superimposed, in many instances, would lead to controversy as to which would apply or, perhaps, to a situation where all would apply.

Other troublesome areas immediately come to mind. What would be done, for example, in the tax treaty area? The proposed rule conflicts with the jurisdictional tests in a number of our tax treaties with other countries. How are the resulting conflicts and inconsistencies to be corrected?

These provisions of the bill, H.R. 13103, are not expected to increase revenues. However, they would add imprecision and confusion to our present well-tested and precise rules of source and jurisdiction. Any changes in these existing rules for any purpose should be the subject of more careful consideration as to their ultimate effect in areas not contemplated or presently considered in the drafting of the bill now before your Committee.

We respectfully request that this letter be made part of the official record of the Committee's hearings.

Sincerely,

D. H. GLEASON,
Chairman, Subcommittee on International Taxation,
NAM Taxation Committee.

MANUFACTURING CHEMISTS' ASSOCIATION, INC.,
Washington, D.C., August 10, 1966.

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

DEAR MR. CHAIRMAN: Reference is made to your Committee's announcement of public hearings on H.R. 13103, The Foreign Investors Tax Act of 1966. The purpose of this letter is to present the views of the Manufacturing Chemists Association (MCA) concerning this bill. For your information, MCA is a non-profit trade association with 192 U.S. member companies, large and small, which