

To what extent this development has contributed to the great change in our balance of payments during the last two years is difficult to assess, but the tendency as such has been quite obvious. We ought to repeat that this was exactly what the German legislator wanted. What he did not want, of course, was the very undesired contribution which this withdrawal of foreign investors made to the present deplorable condition of our capital market.

It would seem quite clear that taxes of the before-mentioned kind cannot but discourage foreign investors who would look for more friendly havens. Large foreign funds invested with US-banks, particularly with those heavily engaged in world-wide transactions, would certainly disappear and foreign holdings would shrink to working balances, thus reducing the flexibility and scope of their international operations. It seems difficult to understand, therefore, why a country suffering from complex structural balance of payments problems should take action to increase the deficit rather than to attract foreign capital. Admittedly, there are always various aspects to a problem and, unfortunately, they are sometimes conflicting.

We hope to have been of assistance to you. You may use these comments as you deem appropriate, although we do not think that we have produced big news.

Very truly yours,

COMMERZBANK, AKTIENGESELLSCHAFT.

The CHAIRMAN. Mr. Anthony Nizetich will not be able to appear here today. He canceled his appearance and sent us a letter signed by John E. Korth, assistant secretary-treasurer, and we will see that the letter is printed.

(The letter referred to follows:)

STAR-KIST FOODS, INC.,

Terminal Island, Calif., August 11, 1966.

Re H.R. 13103.

COMMITTEE ON FINANCE,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

(Attention of Mr. Tom Vail, chief counsel).

GENTLEMEN: We believe that H.R. 13103 is ambiguous with respect to the "effectively connected" concept as embodied in proposed sections 864(c)(4) and section 882. We believe that enactment of these provisions as they are presently written would add to the uncertainties of tax compliance which already exist because of the Revenue Act of 1962 and the delays in issuing regulations under section 482 of the Internal Revenue Code. We believe that the 1962 Revenue Act together with sections 367 and 482 of the Internal Revenue Code give the Internal Revenue Service ample authority to control the shifting of income and expenses outside of the United States. We believe that the entire area of taxation of foreign source income has been thoroughly reviewed and resolved by the recently enacted Revenue Act of 1962.

As businessmen and taxpayers we need clearly defined tax rules and regulations on which to rely in making business decisions. Otherwise, we cannot stay competitive either at home or abroad. The proposed sections of H.R. 13103 as above cited will, in our opinion, accomplish just the opposite. Aside from needless record keeping and accounting requirements, they will create confusion and litigation for many years to come. As always in situations such as this, it is the small businessman who will suffer most.

In the case of small taxpayers in particular, we believe this proposed legislation would create undue hardships for two reasons. First, the small taxpayer will usually be compelled to concede in favor of the Revenue Service's position with respect to the "effectively connected" concept because he will find it too expensive to litigate the issues. Secondly, under the proposed legislation the larger taxpayers will be able to avoid its application in some instances by establishing an office or other fixed place of business outside the United States for their foreign subsidiaries. This tends to disfavor the small taxpayer who cannot economically support a separate foreign-based office location in order simply to avoid the "effectively connected" concept.