

funds for industry, for new enterprises, and for governmental agencies by selling securities to investors both in this country and abroad. Its members also play a significant part in the secondary market for all such securities, both on the stock exchanges and over the counter. Their relations with foreign customers give them frequent opportunities to help improve the United States balance of payments by encouraging investment by foreign persons in securities issued by businesses or governments in the United States.

H.R. 13103 as passed by the House of Representatives on June 15, 1966, while eliminating some of the tax barriers to foreign investment in the United States, would continue one of the most serious barriers to investment in securities of U.S. issuers, namely, the imposition of estate taxes on nonresident aliens who die owning such securities. This is contrary to the recommendation of the Presidential task force headed by Henry H. Fowler before he became Secretary of the Treasury.

The Association can emphatically affirm, based on the experience of its members, the finding of the Fowler task force that U.S. estate taxes are "one of the most important deterrents in our tax laws to foreign investment in the United States." The task force recommended the elimination of all U.S. estate taxes on intangible personal property of nonresident alien decedents. Unfortunately, this important recommendation is not reflected in H.R. 13103 in its present form.

Most persons engaged in the securities business would agree that there are two features of the present tax laws which seriously deter investment in U.S. securities by foreign individuals, trusts and estates. These are (1) the progressive income tax rates applicable to nonresident aliens and foreign trusts and estates if the income derived from United States sources is greater than a certain amount (\$21,200 beginning in 1965), and (2) the application of the Federal estate tax to nonresident alien decedents solely because of their ownership of U.S. securities.

The Fowler task force report recommended the elimination of both of these obstacles. H.R. 13103 in its present form would only eliminate the progressive income tax rates, but the Federal estate taxes would be retained. While the rate of the estate tax would be limited to a maximum of 25%, at the same time the estate tax base would be broadened by making bonds and other indebtedness of U.S. issuers, the certificates of which are physically located outside the United States, and deposits in U.S. banks subject to the estate tax for the first time. Thus H.R. 13103 would not only retain the existing estate tax barrier to foreign investments in U.S. stocks, but would extend it to bonds, debentures and other forms of indebtedness.

As explained in the Report of the Ways and Means Committee of the House, the 25% maximum estate tax rate was recommended primarily because nonresident aliens are not entitled to the 50% marital deduction. Any increase in foreign investment in this country would be only an incidental benefit. However, since the Federal estate tax is one of the two principal tax obstacles to investment by foreign persons in this country, the complete elimination of the estate tax provision should be seriously considered. The elimination of progressive income tax rates alone will not encourage foreign persons to invest in U.S. securities unless this barrier is also eliminated.

No tax avoidance loophole would be created by the elimination of intangibles from the estate tax provisions applicable to nonresident aliens. Since the present tax only applies to investments in U.S. securities, it can easily be avoided by the timely sale of U.S. securities owned by a foreign investor, except in the unfortunate cases where the investor meets death unexpectedly. Furthermore, as the Fowler task force report recognized, the present estate tax can legally be avoided, by foreign investors who can afford the proper advice and planning, by simply having their U.S. securities owned by a personal holding company which is incorporated abroad. Accordingly, while the reduction of the maximum Federal estate tax rate in the case of foreign persons owning U.S. property other than securities may be desirable for the reasons stated in the House Ways and Means Committee report, a complete exemption of securities and other intangibles from the Federal estate tax provisions applicable to nonresident aliens should also be enacted in order to encourage foreign investment.

The policy of not taxing intangibles owned by nonresidents has long been followed by many states of the United States. In the State of New York, this policy has been incorporated into the State Constitution for the specific purpose of encouraging nonresidents to use the investment facilities that exist in New York. This policy has helped greatly to make New York the financial center of the United States. The adoption of a similar policy in the U.S. Internal Revenue